



# IOWA ADMINISTRATIVE BULLETIN

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The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Economic Impact Statements to proposed rules and filed emergency rules; Objections filed by Administrative Rules Review Committee, Governor or the Attorney General; and Delay by the Committee of the effective date of filed rules; Regulatory Flexibility Analyses and Agenda for monthly Administrative Rules Review Committee meetings. Other “materials deemed fitting and proper by the Administrative Rules Review Committee” include summaries of Public Hearings, Attorney General Opinions and Supreme Court Decisions.

The Bulletin may also contain Public Funds Interest Rates [12C.6]; Workers’ Compensation Rate Filings [515A.6(7)]; Usury [535.2(3)“a”]; Agricultural Credit Corporation Maximum Loan Rates [535.12]; and Regional Banking—Notice of Application and Hearing [524.1905(2)].

**PLEASE NOTE:** *Italics* indicate new material added to existing rules; ~~strike-through letters~~ indicate deleted material.

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Jan. 2 '04	Jan. 21 '04	Feb. 10 '04	Feb. 25 '04	Feb. 27 '04	Mar. 17 '04	Apr. 21 '04	July 19 '04
Jan. 16	Feb. 4	Feb. 24	Mar. 10	Mar. 12	Mar. 31	May 5	Aug. 2
Jan. 30	Feb. 18	Mar. 9	Mar. 24	Mar. 26	Apr. 14	May 19	Aug. 16
Feb. 13	Mar. 3	Mar. 23	Apr. 7	Apr. 9	Apr. 28	June 2	Aug. 30
Feb. 27	Mar. 17	Apr. 6	Apr. 21	Apr. 23	May 12	June 16	Sept. 13
Mar. 12	Mar. 31	Apr. 20	May 5	May 7	May 26	June 30	Sept. 27
Mar. 26	Apr. 14	May 4	May 19	May 21	June 9	July 14	Oct. 11
Apr. 9	Apr. 28	May 18	June 2	June 4	June 23	July 28	Oct. 25
Apr. 23	May 12	June 1	June 16	June 18	July 7	Aug. 11	Nov. 8
May 7	May 26	June 15	June 30	July 2	July 21	Aug. 25	Nov. 22
May 21	June 9	June 29	July 14	July 16	Aug. 4	Sept. 8	Dec. 6
June 4	June 23	July 13	July 28	July 30	Aug. 18	Sept. 22	Dec. 20
June 18	July 7	July 27	Aug. 11	Aug. 13	Sept. 1	Oct. 6	Jan. 3 '05
July 2	July 21	Aug. 10	Aug. 25	Aug. 27	Sept. 15	Oct. 20	Jan. 17 '05
July 16	Aug. 4	Aug. 24	Sept. 8	Sept. 10	Sept. 29	Nov. 3	Jan. 31 '05
July 30	Aug. 18	Sept. 7	Sept. 22	Sept. 24	Oct. 13	Nov. 17	Feb. 14 '05
Aug. 13	Sept. 1	Sept. 21	Oct. 6	Oct. 8	Oct. 27	Dec. 1	Feb. 28 '05
Aug. 27	Sept. 15	Oct. 5	Oct. 20	Oct. 22	Nov. 10	Dec. 15	Mar. 14 '05
Sept. 10	Sept. 29	Oct. 19	Nov. 3	Nov. 5	Nov. 24	Dec. 29	Mar. 28 '05
Sept. 24	Oct. 13	Nov. 2	Nov. 17	***Nov. 17***	Dec. 8	Jan. 12 '05	Apr. 11 '05
Oct. 8	Oct. 27	Nov. 16	Dec. 1	Dec. 3	Dec. 22	Jan. 26 '05	Apr. 25 '05
Oct. 22	Nov. 10	Nov. 30	Dec. 15	***Dec. 15***	Jan. 5 '05	Feb. 9 '05	May 9 '05
Nov. 5	Nov. 24	Dec. 14	Dec. 29	Dec. 31	Jan. 19 '05	Feb. 23 '05	May 23 '05
***Nov. 17***	Dec. 8	Dec. 28	Jan. 12 '05	Jan. 14 '05	Feb. 2 '05	Mar. 9 '05	June 6 '05
Dec. 3	Dec. 22	Jan. 11 '05	Jan. 26 '05	Jan. 28 '05	Feb. 16 '05	Mar. 23 '05	June 20 '05
***Dec. 15***	Jan. 5 '05	Jan. 25 '05	Feb. 9 '05	Feb. 11 '05	Mar. 2 '05	Apr. 6 '05	July 4 '05
Dec. 31	Jan. 19 '05	Feb. 8 '05	Feb. 23 '05	Feb. 25 '05	Mar. 16 '05	Apr. 20 '05	July 18 '05

### PRINTING SCHEDULE FOR IAB

#### ISSUE NUMBER

#### SUBMISSION DEADLINE

#### ISSUE DATE

15

Friday, January 2, 2004

January 21, 2004

16

Friday, January 16, 2004

February 4, 2004

17

Friday, January 30, 2004

February 18, 2004

#### PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

\*\*\*Note change of filing deadline\*\*\*

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The Administrative Rules Review Committee will hold a special meeting on Tuesday, January 6, 2004, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

#### **ACCOUNTANCY EXAMINERS BOARD[193A]**

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

Certification of CPAs; fees, 3.1 to 3.15, 12.1, Notice **ARC 3049B** ..... 12/24/03

#### **ADMINISTRATIVE SERVICES DEPARTMENT[11]**

Offset of debts owed state agencies, adopt ch 40, Notice **ARC 3066B**, also Filed Emergency **ARC 3063B** ..... 12/24/03

Pay; recruitment, application and examination; eligible lists; filling vacancies; appointments;

probationary period; promotion, transfer, temporary assignment, reassignment and voluntary demotion;

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#### **DENTAL EXAMINERS BOARD[650]**

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COMMERCE DEPARTMENT[181]"umbrella"

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**MANAGEMENT DEPARTMENT[541]**

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**MEDICAL EXAMINERS BOARD[653]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

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10.4(2)"d," 10.5(2)"b"(3), Filed **ARC 3044B** ..... 12/24/03

Standards of practice and principles of medical ethics, ch 13 title,

13.7, 13.10, 13.20, 13.21; rescind ch 18, Filed **ARC 3045B** ..... 12/24/03Licensure of acupuncturists, 17.4(1)"b," 17.5(3)"g," 17.7, 17.8(1)"d," Notice **ARC 3043B** ..... 12/24/03

Physician supervision of a physician assistant,

ch 21 title, 21.1 to 21.5, 21.7, Filed **ARC 3042B** ..... 12/24/03**NATURAL RESOURCE COMMISSION[571]**

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Bait dealer licenses—definitions of "retail" and "wholesale,"

15.1(1), Filed **ARC 3013B** ..... 12/10/03

State parks and recreation areas, 61.4(1)"c," 61.4(1)"g"(2), 61.4(1)"h"(3) and (6) to (10),

61.6(1) to 61.6(4), 61.9(6) to 61.9(22), Filed **ARC 3015B** ..... 12/10/03Bobcat removed from list of threatened species, 77.2(2), Filed **ARC 3014B** ..... 12/10/03Fishing regulations, 81.1, 81.2(1), 81.2(3), 81.2(12)"b," Filed **ARC 3011B** ..... 12/10/03

Shovelnose sturgeon removed from and silver carp added to list

of permissive catch on the Missouri River, 82.2(1), Filed **ARC 3010B** ..... 12/10/03Taking and possession of mussels for sport, 87.2, Filed **ARC 3012B** ..... 12/10/03

Nonresident deer hunting—minimum arrow length, licenses,

94.7(1), 94.8, 94.8(1), 94.8(2), 94.10(7), Notice **ARC 3009B** ..... 12/10/03

Wild turkey spring hunting, 98.2(1)"b," 98.3, 98.5, 98.13(1), 98.14, 98.16,

Filed **ARC 3016B** ..... 12/10/03**NURSING BOARD[655]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Nursing education curriculum, 2.11(3), Filed **ARC 3055B** ..... 12/24/03Registration fee for advanced registered nurse practitioners, 3.1, Filed **ARC 3056B** ..... 12/24/03**PERSONNEL DEPARTMENT[581]**

IPERS, 21.10(12), 21.10(16), 21.10(19), 21.11(9), 21.16(6), 21.22(1)"d," 21.24(2)"f,"

21.24(3), 21.24(5)"f," 21.24(6)"d," 21.24(18), 21.30, Filed **ARC 3003B** ..... 12/10/03**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Physical and occupational therapy examiners, ch 199, 199.4(2), 199.4(3), 199.6(3), 199.6(4),

ch 200, 200.1, 200.3(1)"c" and "d," 200.4(4), 200.4(5), 200.5(1)"a," 200.7(2), 200.7(2)"a,"  
200.7(6), 200.9, 200.12 to 200.14, chs 201, 202, 204.1(6) to 204.1(10), Filed **ARC 3039B** ..... 12/24/03

Physical and occupational therapy examiners, 205.4(2), 205.4(3), 205.6(3), 205.6(4),

206.1, 206.8(2) to 206.8(5), 206.12, 206.15 to 206.17, chs 208 to 210,  
210.1(5) to 210.1(9), Filed **ARC 3038B** ..... 12/24/03Speech pathology and audiology examiners, 300.2 to 300.16, 305.1(5) to 305.1(11), Notice **ARC 2990B** ..... 12/10/03**PUBLIC HEALTH DEPARTMENT[641]**

Notification and surveillance of reportable communicable and infectious diseases,

poisonings and conditions, 1.1, 1.4, 1.9, Notice **ARC 2979B** ..... 12/10/03Early hearing detection and intervention, adopt ch 3, Filed Emergency After Notice **ARC 2981B** ..... 12/10/03

Shipment of low-level radioactive waste—fee, 38.8(11)"a"(3),

38.8(11)"c," Filed **ARC 2980B** ..... 12/10/03**PUBLIC SAFETY DEPARTMENT[661]**Fire safety—adult day services programs, 5.5(2)"c" to "f," 5.500, 5.510, Notice **ARC 2983B** ..... 12/10/03Fire safety—assisted living facilities, 5.626, Notice **ARC 2984B** ..... 12/10/03

Fire fighting equipment revolving loan fund, ch 55 title, ch 55 div I, 55.1 to 55.3, 55.101 to 55.103,

ch 55 div II, 55.201 to 55.207, Filed Emergency **ARC 3050B** ..... 12/24/03

Fire fighting equipment revolving loan fund, ch 55 title, ch 55 div I, 55.1 to 55.3, 55.101 to 55.103,

ch 55 div II, 55.201 to 55.207, Notice **ARC 3051B** ..... 12/24/03**REVENUE DEPARTMENT[701]**Interest rate for calendar year 2004, 10.2(23), Notice **ARC 2991B** ..... 12/10/03

Individual income tax; corporate tax, 38.8, 39.6(2)"f," 40.1, 40.18(1)"a"(1), 40.28, 41.3,

42.10, 43.1(1), 46.3(2)"a," 46.4(5), 50.3, 52.1(3), 52.12, 53.2(1)"a"(1), 53.19,  
54.6(3), 54.6(3)"b"(2), 59.1, 89.8(7)"t""4," 89.8(8)"c," Notice **ARC 3061B** ..... 12/24/03



**REVENUE DEPARTMENT[701](Cont'd)**

- Individual income tax, 38.10, 38.10(1) to 38.10(17), 40.17, 40.38(7),  
 41.5(7), 42.2(8), 42.4(3)"b" and "c," 42.22, 43.3(1), 43.3(15), Notice **ARC 3062B** ..... 12/24/03
- Investment tax credit for equity investment in qualifying business  
 or community-based seed capital fund; contingent tax credit  
 for investments in Iowa fund of funds, 42.18(1), 42.18(3),  
 52.21(3), 58.11(3), Filed **ARC 3058B** ..... 12/24/03
- Endow Iowa tax credits, 42.20, 52.23, 58.13, Filed **ARC 3057B** ..... 12/24/03
- Determination of value of utility companies, 77.1(1), 77.1(13), 77.4(4)"g" to "j,"  
 77.4(6), 77.5(1), 77.6, Filed **ARC 3059B** ..... 12/24/03
- Violations of the sale of cigarettes or tobacco products—penalties, 81.12(1), Filed **ARC 3060B** ..... 12/24/03

**TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]**

- Purchasing, 5.1 to 5.4, 5.12, 5.13, 5.15, 5.17 to 5.19, Filed **ARC 2982B** ..... 12/10/03

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

- Customer service, 6.2(1), 6.2(2), 6.3(3), 6.5(2), 19.4(1)"d," 19.4(10), 19.4(11),  
 19.4(15) to 19.4(17), 19.4(19)"a," 20.4(1)"d," 20.4(11), 20.4(12), 20.4(14)"g,"  
 20.4(15) to 20.4(17), Filed **ARC 2989B** ..... 12/10/03
- Notice of generation siting waiver requests, 24.15, Notice **ARC 3064B** ..... 12/24/03

**VOTER REGISTRATION COMMISSION[821]**

- Voter registration applications; lists of registered voters, 2.1, 2.8, 3.10, Notice **ARC 3037B** ..... 12/24/03

**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

Regular statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

**EDITOR'S NOTE: Terms ending April 30, 2007.**

Senator Jeff Angelo  
 808 West Jefferson  
 Creston, Iowa 50801

Senator Michael Connolly  
 3458 Daniels Street  
 Dubuque, Iowa 52002

Senator John P. Kibbie  
 P.O. Box 190  
 Emmetsburg, Iowa 50536

Senator Paul McKinley  
 Route 5, Box 101H  
 Chariton, Iowa 50049

Senator Donald Redfern  
 415 Clay Street  
 Cedar Falls, Iowa 50613

Joseph A. Royce  
**Legal Counsel**  
 Capitol, Room 116A  
 Des Moines, Iowa 50319  
 Telephone (515)281-3084  
 Fax (515)281-5995

Representative Danny Carroll  
 244 400th Avenue  
 Grinnell, Iowa 50112

Representative George Eichhorn  
 3533 Fenton Avenue  
 Stratford, Iowa 50249

Representative Marcella R. Frevert  
 P.O. Box 324  
 Emmetsburg, Iowa 50536

Representative David Heaton  
 510 East Washington  
 Mt. Pleasant, Iowa 52641

Representative Geri Huser  
 213 Seventh Street NW  
 Altoona, Iowa 50009

Brian Gentry  
**Administrative Rules Coordinator**  
 Governor's Ex Officio Representative  
 Capitol, Room 11  
 Des Moines, Iowa 50319

To All Agencies:

The Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)“b” by allowing the opportunity for oral presentation (hearing) to be held at least **twenty** days after publication of Notice in the Iowa Administrative Bulletin.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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#### ATTORNEY GENERAL[61]

Quarterly escrow installments from particular nonparticipating manufacturers, ch 5 IAB 12/10/03 <b>ARC 2993B</b>	O'Connor Conference Room Second Floor Hoover State Office Bldg. Des Moines, Iowa	December 30, 2003 3 to 4 p.m.
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#### ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Community development block grants, 23.2, 23.4(4), 23.7(1) IAB 12/24/03 <b>ARC 3033B</b> (See also <b>ARC 3031B</b> herein)	First Floor Northwest Conference Rm. 200 E. Grand Ave. Des Moines, Iowa	January 13, 2004 1:30 p.m.
CEBA—wage threshold requirements, 53.6(1) IAB 12/24/03 <b>ARC 3032B</b> (See also <b>ARC 3030B</b> herein)	Second Floor Northwest Conference Room 200 E. Grand Ave. Des Moines, Iowa	January 13, 2004 2 p.m.
Enterprise zones, 59.8 IAB 12/24/03 <b>ARC 3035B</b>	First Floor Northwest Conference Rm. 200 E. Grand Ave. Des Moines, Iowa	January 13, 2004 2:30 p.m.
Loan and credit guarantee program, ch 69 IAB 12/24/03 <b>ARC 3034B</b>	Main/ICN Conference Room 200 E. Grand Ave. Des Moines, Iowa	January 16, 2004 3 to 4 p.m.

#### EDUCATION DEPARTMENT[281]

Teacher quality—professional development, 83.6 IAB 12/10/03 <b>ARC 2999B</b> (ICN Network)	Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 7, 2004 1 to 3 p.m.
	NIACC 500 College Dr. Mason City, Iowa	January 7, 2004 1 to 3 p.m.
	Grant Wood AEA 4401 Sixth St. SW Cedar Rapids, Iowa	January 7, 2004 1 to 3 p.m.
	Southern Prairie AEA 2814 N. Court St. Ottumwa, Iowa	January 7, 2004 1 to 3 p.m.
	Great River AEA 3601 West Avenue Rd. Burlington, Iowa	January 7, 2004 1 to 3 p.m.
	Keystone AEA 2310 Chaney Rd. Dubuque, Iowa	January 7, 2004 1 to 3 p.m.

**EDUCATION DEPARTMENT[281] (Cont'd)**  
**(ICN Network)**

Iowa Central Community College 916 N. Russell Storm Lake, Iowa	January 7, 2004 1 to 3 p.m.
Atlantic Middle School 1100 Linn St. Atlantic, Iowa	January 7, 2004 1 to 3 p.m.

**ELDER AFFAIRS DEPARTMENT[321]**

Adult day services programs, rescind chs 22 to 24, adopt ch 24 IAB 12/10/03 <b>ARC 3002B</b> <b>(ICN Network)</b>	Third Floor Conference Room Wallace State Office Building Des Moines, Iowa	January 7, 2004 9 to 11 a.m.
	Room 550 411 Third Street SE Cedar Rapids, Iowa	January 7, 2004 9 to 11 a.m.
	Room 211 Southwestern Iowa Comm. College 1501 West Townline Road Creston, Iowa	January 7, 2004 9 to 11 a.m.
	Fourth Floor Trospar-Hoyt County Service Bldg. 822 Douglas St. Sioux City, Iowa <b>* Note change of address</b>	January 7, 2004 * 9 to 11 a.m.
Assisted living programs, ch 25 IAB 12/10/03 <b>ARC 3001B</b> <b>(ICN Network)</b>	Third Floor Conference Room Wallace State Office Building Des Moines, Iowa	January 7, 2004 9 to 11 a.m.
	Room 550 411 Third Street SE Cedar Rapids, Iowa	January 7, 2004 9 to 11 a.m.
	Room 211 Southwestern Iowa Comm. College 1501 West Townline Road Creston, Iowa	January 7, 2004 9 to 11 a.m.
	Fourth Floor Trospar-Hoyt County Service Bldg. 822 Douglas St. Sioux City, Iowa <b>* Note change of address</b>	January 7, 2004 * 9 to 11 a.m.
Monitoring, civil penalties, complaints and investigation for adult day services and assisted living programs; fees; elder group homes, chs 26, 27, 29 IAB 12/10/03 <b>ARC 3000B</b> <b>(ICN Network)</b>	Third Floor Conference Room Wallace State Office Building Des Moines, Iowa	January 7, 2004 9 to 11 a.m.

**ELDER AFFAIRS DEPARTMENT[321] (Cont'd)**  
**(ICN Network)**

Room 550 411 Third Street SE Cedar Rapids, Iowa	January 7, 2004 9 to 11 a.m.
Room 211 Southwestern Iowa Comm. College 1501 West Townline Road Creston, Iowa	January 7, 2004 9 to 11 a.m.
Fourth Floor Trospar-Hoyt County Service Bldg. 822 Douglas St. Sioux City, Iowa * Note change of address	January 7, 2004 * 9 to 11 a.m.

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Emission guidelines and compliance schedules for commercial and industrial solid waste incineration units, 23.1(5) IAB 12/10/03 <b>ARC 3005B</b>	Musser Public Library 304 Iowa Ave. Muscatine, Iowa	January 16, 2004 1 p.m.
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**HUMAN SERVICES DEPARTMENT[441]**

Quality assurance assessment for nursing facilities, 36.1 to 36.8, 81.6(21) IAB 12/10/03 <b>ARC 3022B</b> (See also <b>ARC 3021B</b> )	Fifth Floor Southwest Conference Rm. Hoover State Office Bldg. Des Moines, Iowa	January 5, 2004 9 to 10 a.m.
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**LAW ENFORCEMENT ACADEMY[501]**

Reserve officer personal standards, 10.100 to 10.106 IAB 11/26/03 <b>ARC 2978B</b>	Conference Room Law Enforcement Academy Camp Dodge Johnston, Iowa	December 30, 2003 10 a.m.
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**MEDICAL EXAMINERS BOARD[653]**

Licensure of acupuncturists, 17.4(1), 17.5(3), 17.7, 17.8(1) IAB 12/24/03 <b>ARC 3043B</b>	Suite C 400 SW Eighth St. Des Moines, Iowa	January 13, 2004 3 p.m.
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**NATURAL RESOURCE COMMISSION[571]**

Nonresident deer hunting, 94.7(1), 94.8, 94.10(7) IAB 12/10/03 <b>ARC 3009B</b>	Fourth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	December 30, 2003 2 p.m.
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**PROFESSIONAL LICENSURE DIVISION[645]**

Speech pathology and audiology examiners, 300.2 to 300.16, 305.1 IAB 12/10/03 <b>ARC 2990B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	January 6, 2004 9 to 10 a.m.
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**PUBLIC HEALTH DEPARTMENT[641]**

Reporting, investigation, and surveys; quarantine and isolation, 1.1, 1.4, 1.9 IAB 12/10/03 <b>ARC 2979B</b> (ICN Network)	ICN Room, Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	December 30, 2003 10 to 11 a.m.
	Kirkwood Community College 6301 Kirkwood Blvd. Cedar Rapids, Iowa	December 30, 2003 10 to 11 a.m.
	Resource Center 711 S. Vine St. Glenwood, Iowa	December 30, 2003 10 to 11 a.m.
	Indian Hills Community College 651 Indian Hills Dr. Ottumwa, Iowa	December 30, 2003 10 to 11 a.m.
	Buena Vista University 610 W. Fourth St. Storm Lake, Iowa	December 30, 2003 10 to 11 a.m.
	Newman Catholic High School 2445 19th St. SW Mason City, Iowa	December 30, 2003 10 to 11 a.m.

**PUBLIC SAFETY DEPARTMENT[661]**

Fire safety standards for adult day services programs, 5.5(2), 5.500, 5.510 IAB 12/10/03 <b>ARC 2983B</b> (ICN Network)	Third Floor Conference Room Wallace State Office Building Des Moines, Iowa	January 7, 2004 11 a.m.
	Room 550 411 Third Street SE Cedar Rapids, Iowa	January 7, 2004 11 a.m.
	Room 211 Southwestern Iowa Comm. College 1501 West Townline Road Creston, Iowa	January 7, 2004 11 a.m.
	Fourth Floor Trospar-Hoyt County Service Bldg. 822 Douglas St. Sioux City, Iowa * <b>Note change of address</b>	January 7, 2004 * 11 a.m.
Fire safety standards for assisted living facilities, 5.626 IAB 12/10/03 <b>ARC 2984B</b> (ICN Network)	Third Floor Conference Room Wallace State Office Building Des Moines, Iowa	January 7, 2004 11:30 a.m.
	Room 550 411 Third Street SE Cedar Rapids, Iowa	January 7, 2004 11:30 a.m.
	Room 211 Southwestern Iowa Comm. College 1501 West Townline Road Creston, Iowa	January 7, 2004 11:30 a.m.

**PUBLIC SAFETY DEPARTMENT[661] (Cont'd)**  
**(ICN Network)**

	Fourth Floor Trospar-Hoyt County Service Bldg. 822 Douglas St. Sioux City, Iowa <b>* Note change of address</b>	January 7, 2004 * 11:30 a.m.
Fire fighting equipment revolving loan fund, 55.1 to 55.207 IAB 12/24/03 <b>ARC 3051B</b>	Fire Service Training Bureau 3100 Fire Service Road Ames, Iowa	February 5, 2004 11 a.m.

**UTILITIES DIVISION[199]**

Notice of generation siting waiver requests, 24.15 IAB 12/24/03 <b>ARC 3064B</b>	Hearing Room 350 Maple St. Des Moines, Iowa	January 27, 2004 10 a.m.
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**CITATION of Administrative Rules**

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Agricultural Development Authority[25]

Soil Conservation Division[27]

ATTORNEY GENERAL[61]

AUDITOR OF STATE[81]

BEEF INDUSTRY COUNCIL, IOWA[101]

BLIND, DEPARTMENT FOR THE[111]

CAPITAL INVESTMENT BOARD, IOWA[123]

CITIZENS’ AIDE[141]

CIVIL RIGHTS COMMISSION[161]

COMMERCE DEPARTMENT[181]

Alcoholic Beverages Division[185]

Banking Division[187]

Credit Union Division[189]

Insurance Division[191]

Professional Licensing and Regulation Division[193]

Accountancy Examining Board[193A]

Architectural Examining Board[193B]

Engineering and Land Surveying Examining Board[193C]

Landscape Architectural Examining Board[193D]

Real Estate Commission[193E]

Real Estate Appraiser Examining Board[193F]

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Utilities Division[199]

CORRECTIONS DEPARTMENT[201]

Parole Board[205]

CULTURAL AFFAIRS DEPARTMENT[221]

Arts Division[222]

Historical Division[223]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

City Development Board[263]

Grow Iowa Values Board[264]

Iowa Finance Authority[265]

EDUCATION DEPARTMENT[281]

Educational Examiners Board[282]

College Student Aid Commission[283]

Higher Education Loan Authority[284]

Iowa Advance Funding Authority[285]

Libraries and Information Services Division[286]

Public Broadcasting Division[288]

School Budget Review Committee[289]

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EMPOWERMENT BOARD, IOWA[349]

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

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Deaf Services Division[429]

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Status of Women Division[435]

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INFORMATION TECHNOLOGY DEPARTMENT[471]  
INSPECTIONS AND APPEALS DEPARTMENT[481]  
    Employment Appeal Board[486]  
    Foster Care Review Board[489]  
    Racing and Gaming Commission[491]  
    State Public Defender[493]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]  
NATIONAL AND COMMUNITY SERVICE, IOWA COMMISSION ON[555]  
NATURAL RESOURCES DEPARTMENT[561]  
    Energy and Geological Resources Division[565]  
    Environmental Protection Commission[567]  
    Natural Resource Commission[571]  
    Preserves, State Advisory Board for[575]  
PERSONNEL DEPARTMENT[581]  
PETROLEUM UNDERGROUND STORAGE TANK FUND  
    BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PUBLIC DEFENSE DEPARTMENT[601]  
    Emergency Management Division[605]  
    Military Division[611]  
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PUBLIC HEALTH DEPARTMENT[641]  
    Substance Abuse Commission[643]  
    Professional Licensure Division[645]  
    Dental Examiners Board[650]  
    Medical Examiners Board[653]  
    Nursing Board[655]  
    Pharmacy Examiners Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
    Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SEED CAPITAL CORPORATION, IOWA[727]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
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    Railway Finance Authority[765]  
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TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS COMMISSION[801]  
VETERINARY MEDICINE BOARD[811]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
    Labor Services Division[875]  
    Workers' Compensation Division[876]  
    Workforce Development Board and  
        Workforce Development Center Administration Division[877]



**ARC 3049B****ACCOUNTANCY EXAMINING  
BOARD[193A]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 542.4, the Accountancy Examining Board hereby gives Notice of Intended Action to amend Chapter 3, “Certification of CPAs,” and Chapter 12, “Fees,” Iowa Administrative Code.

The proposed amendments to Chapter 3 implement the transition from pencil and paper to computerization of the Uniform National Examination for Certified Public Accountants beginning in April 2004. The proposed amendments to Chapter 12 allow a range of fees rather than a set fee to cover the cost of examination to the candidate. These fees are paid directly to the Board’s examination administrator, and the proposed range of fees will save the Board’s changing the rules each time a fee increase is adopted, but still allow the Board to limit the fees to be collected.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before January 13, 2004. Comments should be addressed to Glenda Loving, Accountancy Examining Board, 1920 S.E. Hulsizer, Ankeny, Iowa 50021, or faxed to (515)281-7411. E-mail may be sent to [glenda.loving@iowa.gov](mailto:glenda.loving@iowa.gov).

These amendments are intended to implement Iowa Code chapter 542.

The following amendments are proposed.

ITEM 1. Amend rule 193A—3.1(79GA,ch55) as follows:

**193A—3.1(79GA,ch55 542) Qualifications for a certificate as a certified public accountant.**

**3.1(1)** A person of good moral character who makes application pursuant to 2001 Iowa Acts, chapter 55, section 6, *Iowa Code section 542.6* may be granted a certificate as a certified public accountant if the person satisfies all of the following qualifications:

a. Satisfactory completion of the educational requirements of 2001 Iowa Acts, chapter 55, section 5(7), *Iowa Code section 542.5(7)* and rule 193A—3.2(79GA,ch55 542);

b. No less than one year of verified experience including the types of services described in 2001 Iowa Acts, chapter 55, section 5(12), *Iowa Code section 542.5(12)* and rule 193A—3.11 3.12(79GA,ch55 542); and

c. Successful completion of the examination described in 2001 Iowa Acts, chapter 55, section 5(8), *Iowa Code section 542.5(8)* and rule 193A—3.6 3.5(79GA,ch55 542) and the ethics course and examination outlined in 193A—3.12 3.13(79GA,ch55 542).

**3.1(2)** An application may be denied if the applicant:

a. Has been convicted of a crime described in 2001 Iowa Acts, chapter 55, section 5(2) *Iowa Code section 542.5(2)*;

b. Has had a professional license of any kind revoked in this or any other jurisdiction, as provided in 2001 Iowa Acts, chapter 55, section 5(3) *Iowa Code section 542.5(3)*;

c. Makes a false statement of material fact on an application for a certificate or is otherwise implicated in the submission

of a false application as provided in 2001 Iowa Acts, chapter 55, section 5(4) *Iowa Code section 542.5(4)*; or

d. Demonstrates a lack of moral character in a manner which the board reasonably believes will impair the applicant’s ability to practice public accountancy in full compliance with the public interest and state policies described in 2001 Iowa Acts, chapter 55, section 2 *Iowa Code section 542.2*. While it is not possible to itemize all actions or behaviors which may demonstrate a lack of moral character, the following nonexclusive list of factors will guide the board in making its determination:

(1) A pattern and practice of making false or deceptive representations, or of omitting material facts, while providing the public any of the services described in 2001 Iowa Acts, chapter 55, section 3(20) *Iowa Code section 542.3(20)*.

(2) to (4) No change.

ITEM 2. Amend rules 193A—3.2(79GA,ch55) and 193A—3.3(79GA,ch55) as follows:

**193A—3.2(79GA,ch55 542) Colleges or universities recognized by the board.** 2001 Iowa Acts, chapter 55, section 5 *Iowa Code section 542.5*, in providing for educational qualifications for a certificate as certified public accountant, refers to colleges or universities “recognized by the board.” For such purpose, the board recognizes educational institutions accredited by the American Assembly of Collegiate Schools of Business and the regional accrediting bodies listed in the current publication of the Accredited Institutions of Post Secondary Education, which listing is made a part of these rules by reference.

This rule is intended to implement 2001 Iowa Acts, chapter 55, section 5 *Iowa Code section 542.5*.

**193A—3.3(79GA,ch55 542) Accounting concentration.**

**3.3(1)** On or before December 31, 2000, *Iowa Code section 542C.5*, in providing for educational requirements for a certificate as a certified public accountant, refers to “substantially the equivalent of an accounting concentration, including related courses in other areas of business administration.” The requirement for “substantially the equivalent of an accounting concentration” shall be deemed to have been met whether the candidate has a nonaccounting baccalaureate degree supplemented by additional courses or has a baccalaureate degree with a major in accounting provided the candidate has satisfactorily completed a minimum of 48 semester hours, or the equivalent thereof, in accounting and related subjects. Not less than 24 hours shall be in accounting courses, of which at least one course shall be in auditing; and the remainder may be in the subjects of economics, business statistics, business law, finance, business management, marketing, business communication, or other business-related subjects. Mathematics courses shall not qualify unless the course is business math.

A candidate for examination qualifying under this subrule must have passed at least one subject of the examination prior to January 1, 2001, and must successfully complete all subjects of the examination by December 31, 2003, or meet the requirements outlined in subrule 3.3(2).

**3.3(2)** On or after January 1, 2001, a **3.3(1)** A candidate will be deemed to have met the educational requirement if, as part of the 150 semester hours of education as outlined in 2001 Iowa Acts, chapter 55, section 5 *Iowa Code section 542.5*, the candidate has met one of the following four conditions:

a. to c. No change.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

d. Earned a baccalaureate or higher degree and completed the following hours from an accredited institution recognized by the board:

(1) At least 24 semester hours in accounting courses above elementary accounting or principles of accounting covering the subjects of financial accounting, auditing, taxation, and management accounting, not including internships or life experience, and

(2) At least 24 additional semester hours in business-related courses, not including internships or life experience. Elementary accounting hours that do not qualify under subparagraph 3.3(2)“d”(1) 3.3(1)“d”(1) above may apply toward business-related courses.

Quarter hours will be accepted in lieu of semester hours at a 3:2 ratio; that is, three quarter hours is equivalent to two semester hours. Internships and life experience hours may apply toward the total 150 hours' requirement.

~~3.3(3) The board may admit to the examination a candidate who will complete the educational requirements for a baccalaureate degree with a concentration in accounting as provided in subrule 3.3(2) within 120 days immediately following the date of the examination or who has completed those requirements. However, the board shall not report the results of the examination until the candidate has met the educational requirements for a baccalaureate degree and shall not issue the certificate until the candidate has fully satisfied the requirements of 2001 Iowa Acts, chapter 55, sections 5(7) and 5(12).~~

~~3.3(4) 3.3(2)~~ The board will consider correspondence study and study in other schools not meeting the above requirements on an individual basis if the candidate can provide evidence that such study would be acceptable for credit by a college or university recognized by the board; provided, however, that at least 18 of the required hours in accounting and at least 16 of the required hours in business-related subjects must be obtained in a college or university recognized by the board.

~~3.3(5) 3.3(3)~~ The applicant's claim to college or university credits must be confirmed by an official transcript of credit issued by the institution in question. The applicant shall be responsible for having such transcripts sent to the board's test administrator at the time of making application. The applicant shall also be responsible for having any institution not listed under rule 193A—3.2(79GA,ch55 542) furnish the board evidence that it meets the accreditation requirements of the board. In addition, the applicant is responsible for all material being in possession of the test administrator by the deadline for filing applications. Otherwise, the application shall be considered incomplete and shall not be approved by the board.

~~3.3(6) 3.3(4)~~ Graduates of foreign colleges or universities shall have their education evaluated by a foreign credentials evaluation advisory service specified by the board.

ITEM 3. Amend rule 193A—3.4(79GA,ch55) as follows:

**193A—3.4(79GA,ch55 542) Examination applications.**

3.4(1) An individual desiring to take the certified public accountant examination *as an initial candidate* should apply on the form provided by the board's test administrator by the deadline established in rule 193A—3.5(79GA,ch55). *Applications shall not be approved until complete in all respects. A complete application includes a completed application form, the designated fee, all applicable college transcripts and, if required, a certificate of enrollment.*

3.4(2) To be eligible to take the examination as a re-examination applicant, the candidate shall have fulfilled the requirements of rule 193A—3.3(79GA,ch55 542).

3.4(3) to 3.4(7) No change.

ITEM 4. Rescind rule 193A—3.5(79GA,ch55) and renumber rules 193A—3.6(79GA,ch55) and 193A—3.7(79GA,ch55) as 193A—3.5(542) and 193A—3.6(542).

ITEM 5. Amend renumbered rule 193A—3.5(542) as follows:

**193A—3.5(542) Content and grading of the examination.**

3.5(1) The board may make use of the uniform certified public accountant's examination prepared by the American Institute of Certified Public Accountants *or another nationally recognized organization* under a plan of cooperation with the boards of all states and territories of the United States.

3.5(2) The board may also make use of the advisory grading service provided by the American Institute of Certified Public Accountants *or another nationally recognized organization* under a plan of cooperation with the boards of all states and territories of the United States.

3.5(3) The identity of the person taking the examination shall be concealed until after the examination papers have been graded by the advisory grading service. A grade of at least 75 in each subject shall be considered passing.

ITEM 6. Amend renumbered rule 193A—3.6(542) as follows:

**193A—3.6(542) Conditioning conditional requirements.**

3.6(1) *Under the paper-and-pencil examination, a candidate for a certificate is subject to the following:*

3.6(1) a. A candidate must take all subjects at one sitting until the candidate achieves the status of conditional candidate or passes all subjects.

3.6(2) b. A candidate who at any examination passes two or more subjects and obtains a grade of not less than 50 in each subject failed shall be considered as a conditional candidate in the subjects successfully passed. However, the minimum grade requirement will be waived if three subjects are passed at a single sitting.

3.6(3) c. A candidate who achieves conditional standing shall be credited with the subjects in which the candidate received passing grades. A conditional candidate may, upon payment of the required fee, appear for reexamination in the subject or subjects failed at any of the next six *semiannual consecutive* examinations.

3.6(4) d. When a conditional candidate appears for re-examination, the candidate must take all subjects for which failing grades were received. To obtain credit for a subject or subjects passed upon reexamination, the conditional candidate must obtain a grade of not less than 50 in each subject failed. A grade of less than 50 shall have no effect on a prior condition.

3.6(5) e. If, on reexamination, the candidate fails to pass the remaining subject or subjects within the time provided for reexamination in subrule 3.7(3) 3.6(1), paragraph “c,” such candidate shall revert to the status of a new applicant, take the entire examination, and pay the appropriate fee.

3.6(6) The time limit within which a candidate is required to pass all subjects under this rule shall not include any period during which the applicant was serving in the armed forces of the United States. This exception does not apply if the candidate takes an examination while so serving. The board may extend the time limit in particular instances on a case-by-case basis.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

**3.6(7)** The time limit within which a candidate is required to pass all subjects under this rule may be extended for hardship cases, such as when the applicant for the examination is prevented from attending for such reasons as unexpected illness, verified by a medical doctor, or a death in the family, verified in writing.

**3.6(8)** A candidate requesting transfer of grades from any other jurisdiction will be subject to the same provisions of this rule as an Iowa candidate, provided the examination given by the licensing authority in the other state was an examination approved by the Iowa board.

**3.6(9)** A candidate requesting transfer of grades from any other jurisdiction who does not meet the provisions of this rule, but who meets all of the requirements for issuance of an original certificate in the examining state other than residency, may, at the board's discretion, be required to take at least one section of the examination designated by the board.

**3.6(2)** Effective with the implementation of the computer-based examination, a candidate may take the required test subjects individually and in any order. Except as provided in subrule 3.6(3) and rule 193A—3.7(542), credit for any subjects passed shall be valid for 18 months from the actual date the candidate sat for the subject, without the candidate's having to attain a minimum score on any failed subject(s) and without regard to whether the candidate has sat for any other subjects. The candidate shall also be subject to the following:

a. The candidate must pass all four subjects of the examination within a rolling 18-month period that begins on the date that the first subject is passed. If all four subjects are not passed within the 18-month period, credit for any subject taken outside the 18-month period shall expire.

b. If a candidate fails a subject, the candidate cannot retake the same failed subject in an examination window. An examination window refers to a three-month period in which a candidate has the opportunity to take the examination (comprised of two months when the examination is offered and one month when the examination will not be offered while routine maintenance is performed and the item bank is refreshed). Thus, the candidate will be able to sit for the examination two out of three months within an examination window.

**3.6(3)** Effective with the implementation of the computer-based examination, a candidate who has earned conditional status on the paper-and-pencil examination will retain conditional credit for the corresponding test subject of the computer-based examination as follows:

Paper-and-Pencil Examination	Computer-Based Examination
Auditing	Auditing and Attestation
Financial Accounting and Reporting (FARE)	Financial Accounting and Reporting
Accounting and Reporting (ARE)	Regulation
Business Law and Professional Responsibilities (LPR)	Business Environment and Concepts

Such candidate will be allowed until October 31, 2005, or 18 months from the last administration of the paper-and-pencil examination, whichever is longer, to complete any remaining subjects of the examination before the credit(s) earned under the paper-and-pencil examination expires and the candidate loses credit.

**3.6(4)** A candidate shall be deemed to have passed the examination once the candidate holds, at the same time, valid credit for passing each of the four subjects of the examination. For purposes of this rule, credit for passing a subject of the examination is valid from the actual date of the testing

event for that subject, regardless of the date the candidate actually received notice of the passing score.

This rule is intended to implement 2001 Iowa Acts, chapter 55 Iowa Code section 542.5.

ITEM 7. Adopt new rule 193A—3.7(542) as follows:

### 193A—3.7(542) Extension of conditional status.

**3.7(1)** The time limit within which a candidate is required to pass all subjects under these rules shall not include any period during which the candidate was serving in the armed forces of the United States. This exception does not apply if the candidate takes an examination while so serving. The board may extend the time limit in particular instances on a case-by-case basis.

**3.7(2)** The time limit within which a candidate is required to pass all subjects under these rules may be extended for hardship cases, such as when the applicant for the examination is prevented from attending for such reasons as unexpected illness, verified by a medical doctor, or a death in the family, verified in writing.

**3.7(3)** The time limit within which a candidate is required to pass all subjects under these rules may be extended if circumstances occur which prevent the score from an examination from reaching the candidate in a reasonable period of time which would allow the candidate the opportunity to retake a failed subject.

ITEM 8. Renumber rules 193A—3.8(79GA,ch55) through 193A—3.14(79GA,ch55) as 193A—3.9(542) through 193A—3.15(542) and adopt new rule 193A—3.8(542) as follows:

### 193A—3.8(542) Transfer of credit from another jurisdiction.

**3.8(1)** A candidate requesting transfer of grades from any other jurisdiction will be subject to the same provisions of these rules as an Iowa candidate, provided that the examination given by the licensing authority in the other state was an examination approved by the Iowa board.

**3.8(2)** A candidate requesting transfer of grades from any other jurisdiction who does not meet the provisions of these rules, but who meets all of the requirements for issuance of an original certificate in the examining state other than residency, may, at the board's discretion, be required to take at least one section of the examination designated by the board.

ITEM 9. Amend renumbered rule 193A—3.9(542) as follows:

### 193A—3.9(542) Examination procedures.

**3.9(1)** At the examination, a candidate must provide evidence of the identification of the candidate with some two forms of official document documentation such as a driver's license, student identification, service identification, or passport that contains the candidate's photograph and signature. The candidate will be known at the examination by the candidate's identification number alone and the number shall be placed on every sheet containing computations for or answers to the examination questions.

Under no circumstances shall a candidate's name, initials, or any identifying mark, other than the assigned number be placed on any of the examination papers. Failure to comply with this requirement shall be deemed misconduct sufficient for rejecting the candidate's papers.

**3.9(2)** Answers must be submitted on blanks furnished by the board's test administrator and must be completed in the total time allotted for each subject.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

**3.9(2)** *The candidate may be photographed by the test administrator at each appearance for the examination. The test administrator may collect from the candidate a fee for the processing of the photograph.*

**3.9(3)** ~~Stationery~~ *Scratch paper* and supplies furnished by the board's test administrator shall remain the administrator's property and must be returned whether used or not.

**3.9(4)** In the event that ~~any examination papers are lost~~ *a computer malfunction or failure occurs while the examination is being conducted*, the liability of the board or its test administrator will be limited to the fee paid by the applicant for the examination.

ITEM 10. Amend renumbered rule 193A—3.10(542) as follows:

**193A—3.10(542) Conduct of the examination.**

**3.10(1)** No change.

**3.10(2)** Conduct that subverts or attempts to subvert the examination process includes, but is not limited to:

a. No change.

b. Conduct which violates the standards of test administration, such as communicating with any other examination candidate during the administration of the licensing examination; *communicating with others outside of the examination site during the administration of the examination*; copying answers from another candidate or permitting one's answers to be copied by another candidate during the administration of the examination; having in one's possession during the administration of the licensing examination any books, notes, written or printed materials or data of any kind, other than the examination materials distributed.

c. No change.

**3.10(3)** No change.

ITEM 11. Amend renumbered rule 193A—3.11(542) as follows:

**193A—3.11(542) Refunding of examination fees.** Examination fees shall not be refunded except as follows:

1. ~~An applicant who is admitted but fails to attend the examination shall be rebated 50 percent of the prescribed fee provided notification that the applicant will not be present is received by the board 30 calendar days prior to the beginning of the examination.~~

2. ~~Fifty percent of the prescribed fee shall be returned to an applicant whose application has been submitted and reviewed but who is found not qualified to take the examination.~~

3. ~~In in hardship cases, such as when the applicant candidate for the examination is prevented from attending for such reasons as unexpected illness, verified by a medical doctor, a death in the family, or a call to active military service, 50 percent of the fee may be returned provided that under the circumstances it was not possible for the applicant to notify the board at least 30 calendar days prior to the beginning of the examination that the applicant could not be present. Written documentation including evidence of the hardship shall be provided to the board's test administrator.~~

ITEM 12. Amend renumbered rule 193A—3.12(542) as follows:

**193A—3.12(542) Experience for certificate.**

**3.12(1)** No change.

**3.12(2)** One year of experience shall consist of full- or part-time employment that extends over a period of no less than one year and no more than three years and includes no fewer than 2,000 hours of performance of services outlined

in subrule 3.11 3.12(1). Experience may be gained in more than one employment situation, including an internship.

**3.12(3)** No change.

**3.12(4)** All experience shall be verified by a licensee with direct supervisory control over the applicant or by a licensee who can attest that the experience gained by the applicant meets the requirements of subrule 3.11 3.12(1) if the applicant is not supervised by a licensee.

**3.12(5)** No change.

ITEM 13. Amend renumbered rule 193A—3.14(542) as follows:

**193A—3.14(542) Obtaining the certificate.** A candidate who successfully passes the examination, *completes the ethics course and examination* and meets ~~the experience all~~ requirements outlined in rule 193A—3.11 3.1(79GA,ch55 542) shall make application for the certificate on a form which may be obtained from the board office. An applicant for a certificate may be denied the certificate for reasons outlined in subrules 3.4(3), 3.4(4), and 3.4(5) regardless of when the incident occurred.

ITEM 14. Amend renumbered rule 193A—3.15(542) as follows:

**193A—3.15(542) Use of title.**

**3.15(1)** Only a person ~~holding~~ *who holds* a valid certificate *and who complies with the requirements of 193A—Chapters 5 and 10* may use or assume the title "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant.

**3.15(2)** Rules regarding the use of the title "CPA" in a firm name are found at 193A—subrule 13.6(5).

ITEM 15. Amend **193A—Chapter 3**, implementation clause, as follows:

These rules are intended to implement 2001 Iowa Acts, ~~chapter 55 Iowa Code chapter 542.~~

ITEM 16. Amend rule 193A—12.1(79GA,ch55) as follows:

**193A—12.1(79A,ch55 542) Required fees.** The following is a schedule of the fees for examinations, certificates, licenses, permits and renewals adopted by the board:

Initial CPA examination application:

Paid directly to CPA	
examination services	\$285 <i>not to exceed \$1000</i>

Reexamination:

Paid directly to CPA	
examination services	<i>not to exceed \$1000</i>
Four subjects	\$255
Three subjects	N/A
Two subjects	\$170
One subject	\$125

Nonrefundable proctoring fee

for out-of-state candidates	\$100
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Initial LPA examination application

\$120

Reexamination:

Two subjects	\$80
One subject	\$60

Original issuance of CPA certificate or LPA license

by examination (fee includes wall certificate)	\$100
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Original issuance of CPA certificate by

reciprocity or substantial equivalency	\$100
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## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

CPA wall certificate issued by reciprocity or substantial equivalency	\$50
Replacement of lost or destroyed CPA certificate or LPA license	\$50
Original issuance of attest qualification	\$100
Biennial renewal of CPA certificate or LPA license	\$100
Penalty for failure to comply with continuing education requirements	\$50 to \$250
Reinstatement of lapsed CPA certificate or LPA license	\$100 + renewal fee
Original issuance of a firm permit to practice	\$50
Annual renewal of firm permit to practice	\$50
Reinstatement of lapsed firm permit to practice	\$100 + renewal fee

**ARC 3066B****ADMINISTRATIVE SERVICES  
DEPARTMENT[11]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of 2003 Iowa Acts, chapter 145, section 4, the Department of Administrative Services hereby proposes to adopt new Chapter 40, “Offsets of Debts Owed State Agencies,” Iowa Administrative Code.

The purpose of this rule making is to adopt rules on offset of payments owed to persons and entities with liabilities owed to state agencies, which were formerly under the authority of and adopted by the Department of Revenue and Finance. The responsibility for offsets has been transferred to the Department of Administrative Services by the 80th General Assembly in 2003 Iowa Acts, chapter 145, section 86.

Any person who believes that the application of the discretionary provisions of these rules would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Public comments concerning the proposed rules will be accepted until 4:30 p.m. on January 13, 2004. Interested persons may submit written, oral or electronic comments by contacting Carol Stratemeyer, Rules Administrator, Department of Administrative Services, Hoover State Office Building, Level A, Des Moines, Iowa 50319-0104; telephone (515)281-6134; fax (515)281-6140; E-mail [Carol.Stratemeyer@iowa.gov](mailto:Carol.Stratemeyer@iowa.gov).

Persons who want to convey their views orally should contact Carol Stratemeyer, Rules Administrator, at the address stated above. Requests for a public hearing must be received by January 6, 2004.

These rules were also Adopted and Filed Emergency and are published herein as **ARC 3063B**. The content of that submission is incorporated by reference.

These rules are intended to implement 2003 Iowa Acts, chapter 145, section 86.

**ARC 3036B****ADMINISTRATIVE SERVICES  
DEPARTMENT[11]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of 2003 Iowa Acts, chapter 145, sections 4 and 61, the Department of Administrative Services hereby gives Notice of Intended Action to amend and transfer rules of the former Department of Personnel[581], Chapter 4, “Pay”; Chapter 5, “Recruitment, Application and Examination”; Chapter 6, “Eligible Lists”; Chapter 7, “Filling Vacancies”; Chapter 8, “Appointments”; Chapter 9, “Probationary Period”; Chapter 10, “Promotion, Transfer, Temporary Assignment, Reassignment and Voluntary Demotion”; Chapter 16, “Political Activity”; Chapter 18, “Conduct of Employees”; and Chapter 19, “General Administration,” to the Department of Administrative Services[11], Chapter 53, “Pay”; Chapter 54, “Recruitment, Application and Examination”; Chapter 55, “Eligible Lists”; Chapter 56, “Filling Vacancies”; Chapter 57, “Appointments”; Chapter 58, “Probationary Period”; Chapter 59, “Promotion, Transfer, Temporary Assignment, Reassignment and Voluntary Demotion”; Chapter 65, “Political Activity”; and Chapter 66, “Conduct of Employees,” Iowa Administrative Code.

The purpose of this proposed rule making is to comply with statutory changes enacted by the 80th General Assembly in 2003 Iowa Acts, chapter 145. Differences between the original chapters and the renumbered chapters include:

- Removing references to “trainee appointments,” a concept that is not currently in use, from 11—Chapter 53;
- Clarifying the provisions in 11—Chapter 53 for setting the pay of employees returning from leave or employees recalled from layoff;
- In 11—Chapter 54, changing the period of time for which recruitment notices are posted from 15 to 10 days, to reflect the current statutory requirement;
- Incorporating rule 581—19.16(19A) as rule 11—54.7(80GA,ch145); and
- Correcting the date of a previously established retroactive provision on reinstatement in 11—Chapter 57.

The Department will accept public comments on the proposed amendments until 4:30 p.m. on January 13, 2004. Interested persons may submit written, oral or electronic comments to Carol Stratemeyer, Rules Administrator, Department of Administrative Services, Hoover State Office Building, Level A, Des Moines, Iowa 50319-0104; telephone (515)281-6134; fax (515)281-6140; or E-mail [Carol.Stratemeyer@iowa.gov](mailto:Carol.Stratemeyer@iowa.gov).

These amendments are intended to implement 2003 Iowa Acts, chapter 145, article 4, sections 57 through 66, 75, 77, 78, 80, 81 and 83; and Iowa Code chapter 68B.

The following amendments are proposed.

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 1. Transfer **581—Chapter 4** to **11—Chapter 53**; **581—Chapter 5** to **11—Chapter 54**; **581—Chapter 6** to **11—Chapter 55**; **581—Chapter 7** to **11—Chapter 56**; **581—Chapter 8** to **11—Chapter 57**; **581—Chapter 9** to **11—Chapter 58**; **581—Chapter 10** to **11—Chapter 59**; **581—Chapter 16** to **11—Chapter 65**; and **581—Chapter 18** to **11—Chapter 66**.

ITEM 2. Except as otherwise specified below, amend **11—Chapters 53** to **59**, **65** and **66** by replacing all references to Iowa Code chapter 19A with references to 2003 Iowa Acts, chapter 145; by replacing all references to the department of personnel with references to the department of administrative services; and by replacing references to 581—Chapters 4 to 10, 16 and 18 with references to 11—Chapters 53 to 59, 65 and 66.

ITEM 3. Amend rule **11—53.5(80GA,ch145)** as follows:  
Rescind and reserve subrules **53.5(3)** and **53.5(4)**.

Amend subrule 53.5(5) as follows:

**53.5(5)** Temporary, and seasonal, and *internship*. When an appointment is made to a class on a temporary, or seasonal, or *internship* basis, the employee may be paid at any rate within the pay grade to which the class is assigned.

ITEM 4. Amend subrule 53.5(6) as follows:

**53.5(6)** Overlap. When an appointment is made on an overlap basis, the employee shall be paid in accordance with this chapter. See rule **581—8.12(19A) 11—57.12(80GA, ch145)**.

ITEM 5. Amend subrule 53.6(10) as follows:

**53.6(10)** Return from leave. If an employee returns from an authorized leave, the employee shall be paid at the same step or pay rate as prior to the leave, including any pay grade, pay plan, class or general salary increases to for which the employee would have been eligible if not on leave, except as provided for in subrules 4.6(1) 53.6(1) and 4.6(2) 53.6(2). For setting eligibility dates, see subrule 4.7(5) 53.7(5).

ITEM 6. Amend subrule 53.6(11) as follows:

**53.6(11)** Recall. If an employee is recalled in accordance with ~~581 11—subrule 41.3(6) 60.3(6)~~, the employee shall be paid at the same step or pay rate as when laid off or bumped, including any pay grade, pay plan, class or general salary increases, except as provided in subrules 4.6(1) 53.6(1) and 4.6(2) 53.6(2). For setting eligibility dates, see subrule 4.7(5) 53.7(5).

ITEM 7. Amend subrule 53.6(12) as follows:

**53.6(12)** Reinstatement. When an employee is reinstated, the employee may be paid at any step or pay rate for the class to which reinstated. ~~When the rate of pay is decided to be greater than the pay at the time of separation, including any pay grade, pay plan, class or general salary increases, the decision to do so must be in accordance with subrule 4.5(1).~~ For setting eligibility dates, see subrule 4.7(5).

ITEM 8. Amend subrule **53.7(2)**, paragraph “a,” as follows:

a. Performance. Within grade pay increases shall be based on performance, and are not automatic, ~~except as provided in subrule 4.5(3)~~, and may be delayed beyond completion of the employee’s minimum pay increase eligibility period. To be eligible, a within grade pay increase must be accompanied by a current performance evaluation on which the employee received a rating of at least “meets job expectations.” Time spent on required educational or military leave shall be considered to “meet job expectations.”

ITEM 9. Amend subrule **53.7(5)**, paragraph “d,” as follows:

d. Adjustments for returning from leave, or recall and ~~reinstatement~~. An employee who returns to work from a recall list or from an authorized leave of absence ~~or who is reinstated~~ shall have the employee’s eligibility date restored, but adjusted for the period of absence that exceeds 30 calendar days.

ITEM 10. Amend subrule **53.8(1)** by replacing the cross reference to 581—1.1(19A) with a cross reference to 11—50.1(80GA,ch145).

ITEM 11. Amend subrule **53.9(5)**, first unnumbered paragraph, as follows:

As a condition of receiving recruitment or retention pay, the recipient must sign an agreement to continue employment with the appointing authority for a period of time following receipt of the payment that is deemed by the appointing authority to be commensurate with the amount of the payment. If the recipient is terminated for cause or voluntarily leaves state employment, the recipient will be required to repay the appointing authority for the proportionate amount of the payment for the time remaining, and it will be recouped from the final paycheck. When the recipient changes employment to another state agency, then a repayment schedule must be approved by the director. Recoupment will be coordinated with the department of ~~revenue and finance administrative services, state accounting enterprise~~, to ensure a proper reporting of taxes.

ITEM 12. Amend rule **11—53.13(80GA,ch145)** by replacing the cross references to 581 IAC 12.1(19A) with cross references to 11—61.2(80GA,ch145).

ITEM 13. Amend **11—Chapter 53**, implementation clause, as follows:

These rules are intended to implement ~~Iowa Code section 19A.9 2003 Iowa Acts, chapter 145, sections 57, 58, 59, 61, 65, 66, 75, 80, 81 and 83.~~

ITEM 14. Amend subrule 54.1(1) as follows:

**54.1(1)** The director shall give public notice of positions opened for recruitment for a minimum of ~~15~~ ten calendar days following the announcement date. Recruitment may be limited to a specific geographic area or a specific selective background area or both. Recruitment announcements shall be posted publicly. Copies may also be sent to newspapers, radio stations, educational institutions, professional and vocational associations, and other recruitment sources. *Recruitment announcements may be posted as promotional opportunities for current permanent state employees only.*

ITEM 15. Amend subrule **54.2(4)**, paragraph “a,” introductory paragraph, as follows:

a. Promotional lists. Promotional applicants shall meet the minimum qualifications. Promotional applicants may be subject to keyboard examinations, background checks, psychological examinations, and other examinations used for further screening. The following persons may apply to be on promotional eligible lists ~~at any time~~:

ITEM 16. Amend subrule **54.2(6)**, last unnumbered paragraph, as follows:

Applicants disqualified or removed under this subrule shall be notified in writing by the director within five workdays following removal. Applicants may informally request that the director reconsider their disqualification or removal by submitting additional written evidence of their qualifica-

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

tions or reasons why they should not be removed in accordance with rule ~~581—12.3(19A)~~ *11—61.3(80GA,ch145)*. Formal appeal of disqualification or removal shall be in accordance with ~~581—subrule 12.2(4)~~ *11—subrule 61.2(4)*.

ITEM 17. Amend subrule **54.2(7)**, first unnumbered paragraph, as follows:

Applicants and employees may, as a condition of the job, be required to have a current license, certificate, or other evidence of eligibility or qualification. Employees who fail to meet and maintain this requirement shall be subject to discharge in accordance with rule ~~581—8.9(19A)~~ *11—57.9(80GA,ch145)* or ~~581—subrule 11.2(4)~~ *11—subrule 60.2(4)*.

ITEM 18. Amend subrule **54.4(2)**, paragraph “c,” introductory paragraph, by replacing the cross reference to ~~581—5.6(19A)~~ with a cross reference to *11—54.6(80GA,ch145)*.

ITEM 19. Renumber rule ~~581—19.16(19A)~~ as rule **11—54.7(80GA,ch145)** and amend renumbered subrule 54.7(4) as follows:

**54.7(4)** Employee drug tests. Drug testing of employees is prohibited except as provided in subrule ~~49.5~~ *54.7(2)*, paragraph “b.”

ITEM 20. Amend **11—Chapter 54**, implementation clause, as follows:

These rules are intended to implement ~~Iowa Code section 19A.9 as amended by 2000 Iowa Acts, House File 2463, section 12 2003 Iowa Acts, chapter 145, sections 57, 58, 60, 61, 62, 64, 77, 78, 81 and 83.~~

ITEM 21. Amend subrule **55.1(1)** by replacing the cross reference to ~~581—subrule 11.3(6)~~ with a cross reference to *11—subrule 60.3(6)*.

ITEM 22. Amend subrule **55.1(2)** by replacing the cross reference to ~~581—paragraph 5.2(4)“a”~~ with a cross reference to *11—paragraph 54.2(4)“a.”*

ITEM 23. Amend rule **11—55.2(80GA,ch145)** by replacing the cross reference to ~~581—subrule 5.2(6)~~ with a cross reference to *11—subrule 54.2(6)*.

ITEM 24. Amend rule **11—55.2(80GA,ch145)**, numbered paragraph “9,” by replacing the cross reference to ~~581—subrule 12.2(4)~~ with a cross reference to *11—subrule 61.2(4)*.

ITEM 25. Amend **11—Chapter 55**, implementation clause, as follows:

These rules are intended to implement ~~Iowa Code section 19A.9 2003 Iowa Acts, chapter 145, sections 57, 58, 59, 61, 65, 66, 78, 80, 81 and 83.~~

ITEM 26. Amend subrule **56.3(1)** by replacing the cross reference to ~~581—subrule 11.3(6)~~ with a cross reference to *11—subrule 60.3(6)*.

ITEM 27. Amend rule *11—56.4(80GA,ch145)* as follows:

**11—56.4(80GA,ch145) Selective lists.** The director may provide lists of only those eligibles for a position who possess specific education, experience or other selective qualifications required to perform the duties of a position. The director may establish procedures for determining and approving selective qualifications, processing requests and issuing selective lists *with selectives*.

ITEM 28. Amend rule **11—56.7(80GA,ch145)** by replacing the cross reference to ~~581—subrule 5.2(5)~~ with a cross reference to *11—subrule 54.2(5)* and by replacing the cross reference to ~~581—7.5(19A)~~ with a cross reference to *11—56.5(80GA, ch145)*.

ITEM 29. Amend **11—Chapter 56**, implementation clause, as follows:

These rules are intended to implement ~~Iowa Code section 19A.9 as amended by 2000 Iowa Acts, House File 2463, section 12 2003 Iowa Acts, chapter 145, sections 57, 58, 59, 61, 62, 64, 65, 66, 78, 81 and 83.~~

ITEM 30. Amend rule **11—57.2(80GA,ch145)** by replacing the cross reference to ~~581—Chapter 7~~ with a cross reference to *11—Chapter 56*.

ITEM 31. Amend rule **11—57.5(80GA,ch145)**, second unnumbered paragraph, as follows:

Former employees who are reinstated shall accrue vacation at the same rate as at the time they separated from state employment, and the employee’s previous vacation anniversary date minus the period of separation shall be restored. This paragraph shall be effective retroactive to January 1, ~~2000~~ *1995*.

ITEM 32. Amend **11—Chapter 57**, implementation clause, as follows:

These rules are intended to implement ~~Iowa Code section 19A.9 as amended by 2000 Iowa Acts, House File 2463, section 12 2003 Iowa Acts, chapter 145 sections 57, 58, 59, 60, 61, 64, 65, 66, 78, 81 and 83.~~

ITEM 33. Amend rule **11—58.2(80GA,ch145)**, first unnumbered paragraph, by replacing the cross reference to ~~581—subrule 4.6(7)~~ with a cross reference to *11—subrule 53.6(7)*.

ITEM 34. Amend rule **11—58.3(80GA,ch145)** by replacing the cross reference to ~~581—subrule 4.6(7)~~ with a cross reference to *11—subrule 53.6(7)*.

ITEM 35. Amend rule **11—58.4(80GA,ch145)** by replacing the cross reference to ~~581—subrule 7.3(2)~~ with a cross reference to *11—subrule 56.3(2)* and by replacing the cross reference to ~~581—subrule 4.6(6)~~ with a cross reference to *11—subrule 53.6(6)*.

ITEM 36. Amend rule **11—58.5(80GA,ch145)** by replacing the cross reference to ~~581—subrule 4.6(8)~~ with a cross reference to *11—subrule 53.6(8)*.

ITEM 37. Amend rule **11—58.6(80GA,ch145)** by replacing the cross reference to ~~581—subrule 4.6(9)~~ with a cross reference to *11—subrule 53.6(9)*.

ITEM 38. Amend **11—Chapter 58**, implementation clause, as follows:

These rules are intended to implement ~~Iowa Code section 19A.9 2003 Iowa Acts, chapter 145, sections 57, 59, 61, 63, 64, 65, 66, 78, 81 and 83.~~

ITEM 39. Amend rule **11—59.2(80GA,ch145)**, first unnumbered paragraph, by replacing the cross reference to ~~581—11.2(19A)~~ with a cross reference to *11—60.2(80GA, ch145)*.

ITEM 40. Amend **11—Chapter 59**, implementation clause, as follows:

These rules are intended to implement ~~Iowa Code section 19A.9 as amended by 2000 Iowa Acts, House File 2463, sec-~~

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

tion 12 2003 Iowa Acts, chapter 145, sections 57, 58, 59, 61, 62, 65, 66, 75, 78, 81 and 83.

ITEM 41. Amend rule **11—65.3(80GA,ch145)**, introductory paragraph, by replacing the cross reference to 16.1(19A) with a cross reference to 65.1(80GA,ch145) and by replacing the cross reference to 16.2(19A) with a cross reference to 65.2(80GA,ch145).

ITEM 42. Amend **11—Chapter 65**, implementation clause, as follows:

These rules are intended to implement ~~Iowa Code section 19A.9~~ 2003 Iowa Acts, chapter 145, sections 61, 64 and 66.

ITEM 43. Amend subrule **66.2(1)**, definition of “regulatory agency,” as follows:

“Regulatory agency” means the department of agriculture and land stewardship;; department of ~~employment services~~ *workforce development*;; department of commerce;; department of public health;; department of public safety;; department of education;; board of regents;; department of human services;; department of revenue ~~and finance~~;; department of inspections and appeals;; department of ~~personnel~~, *administrative services*, *human resources enterprise*; public employment relations board;; department of transportation;; civil rights commission;; department of public defense;; and department of natural resources.

ITEM 44. Amend subrule **66.2(2)**, paragraph “c,” by replacing the cross reference to 581—12.1(19A) with a cross reference to 11—61.1(80GA,ch145).

ITEM 45. Amend subrule 66.5(2) as follows:

**66.5(2)** Employees may contact the office of the Iowa citizens’ aide at ~~1-800-358-5510~~ (888)426-6283 to report violations of this rule.

ITEM 46. Amend **11—Chapter 66**, implementation clause, as follows:

These rules are intended to implement ~~Iowa Code section 19A.9~~ 2003 Iowa Acts, chapter 145, section 61, and Iowa Code section 68B.4.

## ARC 3065B

### ADMINISTRATIVE SERVICES DEPARTMENT[11]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of 2003 Iowa Acts, chapter 145, section 4, the Department of Administrative Services hereby gives Notice of Intended Action to amend and transfer rules of the former Department of Personnel[581], Chapter 23, “Employee Organization Dues,” to Administrative Services Department[11], Chapter 70, “Employee Organization Dues,” Iowa Administrative Code.

The purpose of this proposed rule making is to comply with statutory changes enacted by the 80th General Assembly in 2003 Iowa Acts, chapter 145, by transferring rules regarding employee organization dues from the former Department of Personnel to the new Department of Administrative Services. Changes are solely editorial in nature.

The Department will accept public comments on the proposed amendments until 4:30 p.m. on January 13, 2004. Interested persons may submit written, oral or electronic comments to Carol Stratemeyer, Rules Administrator, Department of Administrative Services, Hoover State Office Building, Level A, Des Moines, Iowa 50319-0104; telephone (515)281-6134; fax (515)281-6140; or E-mail [Carol.Stratemeyer@iowa.gov](mailto:Carol.Stratemeyer@iowa.gov).

These amendments are intended to implement Iowa Code chapter 20.

The following amendments are proposed.

ITEM 1. Transfer **581—Chapter 23** to **11—Chapter 70**.

ITEM 2. Amend **11—Chapter 70** by replacing all internal references to Chapter 23 with references to Chapter 70.

## ARC 3033B

### ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 23, “Iowa Community Development Block Grant Program,” Iowa Administrative Code.

The proposed amendments raise the ceiling for grants made under the job creation, retention and enhancement set-aside portion of the program and establish the threshold for wages at 100 percent of the average county wage or 100 percent of the average regional wage. It also raises the set-aside amount to 25 percent of the annual allocation of funds.

A transition provision is provided for applicants that will have fully completed preapplications pending before the Department prior to the January 1, 2004, effective date of the Filed Emergency amendments, or fully completed preapplications that are postmarked or E-mailed to the Department by the close of business on December 31, 2003. These applications will be evaluated using the rules regarding wage thresholds in effect at the time of submittal.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on January 13, 2004. Interested persons may submit written or oral comments to Roselyn McKie Wazny, Community Development Division, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515) 242-4822; E-mail [rose.wazny@ided.state.ia.us](mailto:rose.wazny@ided.state.ia.us).



## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

A public hearing to receive comments about the proposed amendments will be held on January 13, 2004, at 1:30 p.m. at the above address in the first floor northwest conference room.

These rules are intended to implement Iowa Code section 15.108(1)“a.”

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3031B**. The content of that submission is incorporated by reference.

**ARC 3032B****ECONOMIC DEVELOPMENT, IOWA  
DEPARTMENT OF[261]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 53, “Community Economic Betterment Program,” Iowa Administrative Code.

The proposed amendments increase the wage threshold requirements for eligibility for assistance. To be eligible, project jobs must have a starting wage equal to or exceeding 100 percent of the average county wage or 100 percent of the average regional wage, whichever is lower, and over 50 percent of the pledged jobs must be at or above the 100 percent level. These changes are intended to assist the Department in meeting the legislative mandate to the Department to raise the average wage of Iowans. These amendments are intended to complement the wage thresholds established by the Iowa Values Board for its financial assistance programs.

A transition provision is provided for applicants that will have fully completed preapplications pending before the Department prior to the January 1, 2004, effective date of these amendments, or fully completed preapplications that are postmarked or E-mailed to the Department by the close of business on December 31, 2003. These applications will be evaluated using the rules regarding wage thresholds in effect at the time of submittal.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on January 13, 2004. Interested persons may submit written or oral comments to: Ken Boyd, Business Finance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4810; E-mail [ken.boyd@ided.state.ia.us](mailto:ken.boyd@ided.state.ia.us).

A public hearing to receive comments about the proposed amendments will be held on January 13, 2004, at 2 p.m. at the above address in the northwest conference room on the second floor.

These rules are intended to implement Iowa Code chapter 15 and 2003 Iowa Acts, First Extraordinary Session, chapters 1 and 2.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3030B**. The content of that submission is incorporated by reference.

**ARC 3035B****ECONOMIC DEVELOPMENT, IOWA  
DEPARTMENT OF[261]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 59, “Enterprise Zones,” Iowa Administrative Code.

The proposed amendments implement statutory changes made by the legislature during the past session relating to the tax credits associated with designated housing enterprise zones. The proposed revisions include the method to transfer state tax credits in conjunction with the sale of federal low-income housing tax credits.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on January 13, 2004. Interested persons may submit written or oral comments by contacting Roselyn McKie Wazny, Community Development Division, Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515) 242-4822; E-mail [rose.wazny@ided.state.ia.us](mailto:rose.wazny@ided.state.ia.us).

A public hearing to receive comments about the proposed amendments will be held at 2:30 p.m. on January 13, 2004, at the above address in the first floor northwest conference room. Individuals interested in providing comments at the hearing should contact Roselyn McKie Wazny by 4 p.m. on January 12, 2004, to be placed on the hearing agenda.

These amendments are intended to implement 2003 Iowa Acts, chapter 133.

The following amendments are proposed.

ITEM 1. Amend 261—59.8(15E), introductory paragraph, as follows:

**261—59.8(15E) Eligible housing business.** An eligible housing business includes a housing developer or , housing contractor, or nonprofit organization.

ITEM 2. Amend paragraph **59.8(1)“a”** as follows:

a. The housing business must build or rehabilitate either:

(1) A minimum of four single-family homes located in that part of a city or county in which there is a designated enterprise zone, or

(2) One multiple dwelling unit building containing three or more individual dwelling units located in that part of a city or county in which there is a designated enterprise zone.

*For purposes of this subrule, rehabilitation means any project in which the costs of improvements to the property are equal to or greater than 25 percent of the acquisition cost of the property.*

ITEM 3. Amend paragraph **59.8(1)“b”** as follows:

b. The single-family homes and or dwelling units which are rehabilitated or constructed by the housing business shall be modest homes or units, but shall include the necessary amenities. When completed and made available for occupancy, the single-family homes and or dwelling units shall meet the United States Department of Housing and Urban

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

Development's housing quality standards and local safety standards.

ITEM 4. Amend paragraph **59.8(1)“c”** as follows:

c. The eligible housing business shall complete its building or rehabilitation within two years from the time the business begins construction on the single-family homes and dwelling units. The failure to complete construction or rehabilitation within two years shall result in the eligible housing business's becoming ineligible and subject to the repayment requirements and penalties *in the agreement described in rule 261—59.13(15E)*.

ITEM 5. Amend paragraph **59.8(1)“d”** by adding the following **new** subparagraph (5):

(5) Information showing the total costs and sources of project financing that will be utilized for the new investment directly related to housing for which the business is seeking approval for a tax credit provided in subrule 59.8(2), paragraph “a.”

ITEM 6. Amend subrule 59.8(2), introductory paragraph, as follows:

**59.8(2) Benefits.** A business that qualifies under the “eligible housing business” category may be eligible to receive the following benefits ~~for a period of ten years:~~

ITEM 7. Rescind paragraph **59.8(2)“a”** and insert in lieu thereof the following **new** paragraph:

a. Investment tax credit. An eligible housing business may claim a tax credit up to a maximum of 10 percent of the new investment which is directly related to the building or rehabilitating of a minimum of four single-family homes located in that part of a city or county in which there is a designated enterprise zone or one multiple dwelling unit building containing three or more individual dwelling units located in that part of a city or county in which there is a designated enterprise zone. New investment which is directly related to the building or rehabilitating of homes includes, but is not limited to, the following costs: land, surveying, architectural services, building permits, inspections, interest on a construction loan, building materials, roofing, plumbing materials, electrical materials, amounts paid to subcontractors for labor and material provided, concrete, labor, landscaping, appliances normally provided with a new home, heating and cooling equipment, millwork, drywall and drywall materials, nails, bolts, screws, and floor coverings. New investment does not include the machinery, equipment, or hand or power tools necessary to build or rehabilitate homes. In determining the amount of tax credits to be awarded to a project, the department shall not include the portion of the project cost financed through federal, state, and local government tax credits, grants, and forgivable loans. The tax credit shall not exceed 10 percent of \$140,000 for each home or individual unit in a multiple dwelling unit building. This tax credit may be used to reduce the tax liability imposed under Iowa Code chapter 422, division II, III, or V, or chapter 432. The tax credit may be taken on the tax return for the tax year in which the project is certified for occupancy. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. If the business is a partnership, S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

If the approved housing business is using low-income housing tax credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the project, the department shall, upon project completion, issue a tax credit certificate to the eligible housing business. The denomination of the tax credit certificate will be based on documentation provided to the department by the Iowa finance authority at the time the eligible housing business's IRS Form 8609 is issued. The department shall issue tax credit certificates once per year or when the department determines it to be necessary and appropriate. The eligible housing business shall not claim the tax credit unless a tax credit certificate issued by the department is attached to the taxpayer's return for the tax year for which the tax credit is claimed.

Housing enterprise zone tax credit certificates issued to eligible housing businesses also using low-income housing tax credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the project may be transferred to any person. Within 90 days of the sale of the housing enterprise zone tax credit, the eligible housing business must return the tax credit certificate issued by the department so that replacement tax credit certificate(s) can be issued. The original tax credit certificate shall be accompanied by a written statement from the eligible housing business which contains the names, tax identification numbers, and addresses of the taxpayers to which the tax credits are being transferred, along with the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue. Within 30 days of receiving the eligible housing business's tax credit certificate and written statement, the department shall issue replacement tax credit certificate(s). The department shall not issue replacement tax credit certificates in an amount less than \$25,000.

ITEM 8. Amend paragraph **59.8(2)“b”** as follows:

b. Sales, service, and use tax refund. An approved housing business shall receive a sales, service, and use tax refund *for taxes paid by an eligible housing business including an eligible housing business acting as a contractor or subcontractor, as provided in Iowa Code section 15.331A. as described in paragraph 59.6(3)“e.”*

**ARC 3034B**

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to adopt Chapter 69, “Loan and Credit Guarantee Program,” Iowa Administrative Code.

The proposed new rules implement the Loan and Credit Guarantee Program as authorized by 2003 Iowa Acts, First Extraordinary Session, chapter 2, section 69, and chapter 1, sections 101 to 106. The rules establish application proce-

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

dures and evaluation criteria, form of award, and the contractual and compliance components of the program.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on January 16, 2004. Interested persons may submit written or oral comments by contacting: Nichole Warren, Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4827.

A public hearing to receive comments about the proposed new chapter will be held on January 16, 2004, from 3 to 4 p.m. at the above address in the main/ICN conference room.

These rules are intended to implement 2003 Iowa Acts, First Extraordinary Session, chapter 2, section 69, and chapter 1, sections 101 to 106.

The following new chapter is proposed.

## CHAPTER 69

## LOAN AND CREDIT GUARANTEE PROGRAM

**261—69.1(15E) Purpose.** The purpose of the loan and credit guarantee program is to create incentives and assistance to increase the flow of private capital to targeted industry businesses and other qualified businesses, to promote industrial modernization and technology adoption, to encourage the retention and creation of jobs, and to encourage the export of goods and services sold by Iowa businesses in national and international markets.

**261—69.2(15E) Definitions.**

“Act” means 2003 Iowa Acts, First Extraordinary Session, chapter 1, sections 101 to 106.

“Department” or “IDED” means the Iowa department of economic development.

“Financial institution” means a state bank as defined in Iowa Code section 524.103, subsection 33, a state bank chartered under the laws of any other state, a national banking association, a trust company, a federally chartered savings and loan association, an out-of-state state chartered savings bank, a financial institution chartered by the federal home loan bank board, a non-Iowa chartered savings and loan association, an association incorporated or authorized to do business under Iowa Code chapter 534, or a production credit association or such other financial institution as defined by the department for purposes of this chapter.

“Program” means the loan and credit guarantee program established in the Act.

“Qualified business” means an existing or proposed business entity with an annual average number of employees not exceeding two hundred employees. “Qualified business” does not include businesses engaged primarily in retail sales, real estate, or the provision of health care or other professional services. “Qualified business” includes professional services businesses that provide services to targeted industry businesses or other entities. To be considered a qualified business, a professional services business must derive a majority of its revenue from targeted industry businesses.

“Targeted industry business” means an existing or proposed business entity, including an emerging small business or qualified business which is operated for profit and which has a primary business purpose of doing business in at least one of the targeted industries designated by the department, which include life sciences, software and information technology, advanced manufacturing, value-added agriculture, and any other industry designated as a targeted industry by the loan and credit guarantee advisory board.

**261—69.3(15E) Application and review process.** The department, with the advice of the loan and credit guarantee board, shall develop and make available a standardized application pertaining to the issuance of loan and credit guarantees. Subject to the availability of funds, the loan and credit guarantee board will review applications and make recommendations to the department pertaining to the approval of loan and credit guarantee awards. The director of the department shall have final approval of loan and credit guarantee awards.

**69.3(1)** Each participating financial institution shall identify and underwrite potential lending opportunities with qualified businesses and targeted industry businesses. Upon determination by the financial institution that the business meets the financial institution’s underwriting criteria, subject to the approval of a loan and credit guarantee, the financial institution shall submit a loan and credit guarantee application and the underwriting information to the department.

**69.3(2)** It shall be the responsibility of the financial institution and the qualified business or targeted industry business to submit a complete application. The department, with the advice of the loan and credit guarantee board, shall determine when an application is complete. Once the department has determined that an application is complete, the department shall consider the application as expeditiously as possible.

**69.3(3)** The department, with the advice of the loan and credit guarantee board, may develop an application procedure to allow a qualified business or a targeted industry business to apply directly to the department for a preliminary guarantee determination. A preliminary guarantee determination may be issued by the department subject to the qualified business’s or targeted industry business’s securing a commitment for financing from a financial institution.

**261—69.4(15E) Application approval or rejection.** Upon approval of an application, the department shall issue a loan and credit guarantee agreement with a financial institution outlining the terms and conditions upon which the loan will be guaranteed.

**69.4(1)** No guarantee shall become effective until the required fees have been paid. Such payment, along with an executed loan authorization shall indicate the financial institution’s acceptance of the terms of the loan authorization.

**69.4(2)** In the event the department rejects an application, the financial institution and the borrower will be sent notice, including reasons for the rejection.

**261—69.5(15E) Terms and conditions.** A loan and credit guarantee provided to a financial institution for a qualified business or targeted industry business shall not exceed \$1 million. Loan and credit guarantees provided under the program to more than one financial institution for a single qualified business or targeted industry business shall not exceed \$10 million.

**69.5(1)** A loan and credit guarantee provided under the program shall be for eligible project costs. Eligible project costs include expenditures for production equipment and machinery, land and real estate, working capital for operations and export transactions, research and development, marketing, engineering and architectural fees, and such other costs as the department may designate.

**69.5(2)** The loan and credit guarantee provided under the program shall be negotiated on a case-by-case basis and in no case shall exceed more than 50 percent of the amount to be loaned to the qualified business or targeted industry business

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

by the financial institution for the project as described in the loan and credit guarantee application.

**69.5(3)** Interest rate and term of the loan to be secured shall be agreed upon between the financial institution and the borrower, provided that no guarantee exceeds 15 years.

**69.5(4)** Repayment of a guaranteed loan shall be secured by such collateral as the department deems prudent.

**69.5(5)** The covenants and requirements of the loan shall be established by the financial institution and department in accordance with prudent lending practices.

**261—69.6(15E) Administrative costs and program fees.** The department, with the advice of the loan and credit guarantee board, may establish fees for participation in the loan and credit guarantee program.

**69.6(1)** The department shall charge a nonrefundable application fee for a loan and credit guarantee. The department shall set the application fee annually and include the fee information in the application materials for the loan and credit guarantee program. This fee will be payable upon submission of an application for a loan and credit guarantee from a financial institution or a qualified business or targeted industry business and shall not exceed \$1,000.

**69.6(2)** Upon the approval of a loan and credit guarantee application, the department shall charge a fee for authorization of the loan or credit guarantee. The fee shall be 2.5 percent of the amount of funds to be guaranteed under the program. No loan and credit guarantee agreement will be executed until the fee is received by the department.

**261—69.7(15E) Administration of guarantees.** A preliminary commitment issued by the department shall be effective for 90 days from the date of issuance. If the contingencies outlined in the preliminary commitment are not met within 90 days, the preliminary commitment will be void.

**69.7(1)** A loan and credit guarantee agreement shall be executed between a financial institution, the borrower and the department. These rules and applicable state laws and regulations shall be part of the agreement. The loan and credit guarantee agreement shall include, but is not limited to, the following:

a. Provisions setting forth the responsibilities of the financial institution to prudently underwrite and service insured loans in such a manner as would be the normal and customary practice of a prudent lender making or servicing a loan.

b. A requirement that the financial institution notify the department in writing within 5 business days after a borrower's payment is 30 days late and within 15 business days of any other default or event or condition which indicates the loan may be difficult to collect in full. Upon default, the financial institution, in consultation with the department, shall take such action as may be prudent, including foreclosing on and liquidating collateral.

c. The department may, at its discretion, cancel or reduce a loan or credit guarantee if the financial institution breaches its responsibilities under the loan and credit guarantee agreement.

d. Awards may be conditioned upon commitment of other sources of funds necessary to complete the project or upon other matters as determined appropriate by the department.

**69.7(2)** The financial institution and borrower must execute and return the loan and credit guarantee agreement to the department within the time period specified by the department in the agreement. Failure to do so may be cause for the department to terminate the loan and credit guarantee.

**69.7(3)** Any substantive change to a loan and credit agreement, such as time extensions, budget revisions and significant alteration of the funded project that change the scope, location, objectives or scale of the approved project, shall be considered a request for an amendment. Amendments must be requested in writing by the financial institution and are not considered valid until approved by the department and confirmed in writing by IDED following the procedure specified in the contract between the recipient and IDED.

**69.7(4)** Financial institutions shall comply with these rules, with any provisions of the Iowa Code governing activities performed under this program and with applicable local regulations.

These rules are intended to implement 2003 Iowa Acts, First Extraordinary Session, chapter 2, section 69, and chapter 1, sections 101 to 106.

**ARC 3048B****ETHICS AND CAMPAIGN  
DISCLOSURE BOARD, IOWA[351]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, “Campaign Disclosure Procedures,” Iowa Administrative Code.

The proposed amendment clarifies the procedural requirements for a person that voluntarily registers a campaign committee by voluntarily filing a statement of organization prior to being required to file the statement by exceeding the \$750 filing threshold. A person that voluntarily files a statement of organization and complies with the procedural requirements is not required to file disclosure reports.

The proposed amendment does not contain a specific waiver provision. However, any penalties imposed for violations would be subject to an already existing waiver provision.

Any interested person may make written comments on the proposed amendment on or before January 13, 2004. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 514 E. Locust, Suite 104, Des Moines, Iowa 50309. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code sections 56.5, 56.6, and 68B.32A(8).

The following amendment is proposed.

Rescind rule 351—4.11(56,68B) and adopt the following **new** rule in lieu thereof:

**351—4.11(56,68B) Exception from reporting requirement—voluntary reports.**

**4.11(1)** Persons that have not exceeded financial threshold. A person that has not exceeded the \$750 financial filing threshold may file a statement of organization for purposes of using the short form “paid for by” attribution statement under rule 351—4.38(56,68B). A person that chooses to voluntarily file a statement of organization shall notify the board at the

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

time of filing the statement of organization that the person has not exceeded the \$750 threshold. A person providing such notice shall not be required to file disclosure reports unless the threshold is later exceeded.

**4.11(2)** Failure to notify board. A person that fails to notify the board at the time of filing a voluntary statement of organization that the \$750 financial filing threshold was not exceeded shall file a disclosure report on or before each appropriate due date until the person notifies the board that the \$750 threshold was not exceeded. The failure to file a disclosure report subjects the person to civil penalties pursuant to 351—Chapter 10.

**4.11(3)** Termination. A person that voluntarily files a statement of organization shall notify the board when the person is no longer active in the election. The board may administratively terminate the voluntary statement of registration if the board determines that the person is no longer active in the election.

**4.11(4)** Persons not engaged in express advocacy. A person that is not engaged in the express advocacy of candidates or ballot issues is not subject to the Iowa campaign laws. Any such person that voluntarily files a statement of organization or that voluntarily files a disclosure report shall be notified that the campaign laws do not apply and that filings are not required. A document filed under this subrule shall be marked “voluntary” and made a public record.

This rule is intended to implement Iowa Code sections 56.5, 56.6, and 68B.32A(8).

**ARC 3046B****ETHICS AND CAMPAIGN  
DISCLOSURE BOARD, IOWA[351]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, “Campaign Disclosure Procedures,” Iowa Administrative Code.

The proposed amendment provides that the prohibition on corporate contributions does not apply to an incorporated media organization hosting a candidate debate when at least two or more candidates are invited to participate. This amendment reflects Federal Election Commission regulations 11 CFR 110.13 and 111.4, the Arkansas Educational Television Commission v. Forbes, 523 U.S. 666 (1998) case, and the Board’s determination after an investigation.

The proposed amendment does not contain a waiver provision as the requirements reflect federal regulations and a federal court decision.

Any interested person may make written comments on the proposed amendment on or before January 13, 2004. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 514 E. Locust, Suite 104, Des Moines, Iowa 50309. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code sections 56.6 and 56.15.

The following amendment is proposed.

Adopt **new** rule 351—4.51(56) as follows:

**351—4.51(56) Candidate debate—media organization; debate structure; debate funding; contribution reporting inapplicable.** Iowa Code section 56.15 prohibits corporations from making contributions to state or local candidates in Iowa. This prohibition does not apply to incorporated media organizations that host candidate debates described in this rule.

**4.51(1)** Media organization defined. “Media organization” means a broadcaster, cable television operator, television programmer, television producer, bona fide newspaper, magazine, or any other periodical publication. The media organization shall not be owned or controlled by a political party, political committee, or candidate.

**4.51(2)** Debate structure. The structure of the debate shall be left to the discretion of the media organization provided that at least two or more candidates for the particular office are invited to participate. The debate shall not be structured to promote or advance one candidate over another. In choosing which candidates to invite to a debate, the media organization shall use good faith editorial judgment that is reasonable and viewpoint-neutral.

**4.51(3)** Funding debates. A media organization may use its own funds and may accept funds donated by corporations to defray costs incurred in staging a candidate debate under this rule.

**4.51(4)** Contribution reporting inapplicable. The costs of a debate under this rule are not a reportable monetary or in-kind contribution under Iowa Code section 56.6.

This rule is intended to implement Iowa Code sections 56.6 and 56.15.

**ARC 3047B****ETHICS AND CAMPAIGN  
DISCLOSURE BOARD, IOWA[351]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to adopt Chapter 5, “Use of Public Resources for a Political Purpose,” Iowa Administrative Code.

The amendment proposes a new chapter on the permissible and impermissible uses of public resources for a political purpose. The proposed chapter reflects the language of Iowa Code section 56.12A, the holdings of advisory opinions, and the determinations in Board investigations.

The proposed chapter does not contain a waiver provision as the obligations in the rules are mandated by statute or are interpretations of the statutory obligation.

Any interested person may make written comments on the proposed chapter on or before January 13, 2004. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 514 E. Locust, Suite 104, Des

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

Moines, Iowa 50309. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

These rules are intended to implement Iowa Code sections 56.2, 56.12A, 68B.32A(11), and 68B.32B.

The following new chapter is proposed.

CHAPTER 5  
USE OF PUBLIC RESOURCES FOR  
A POLITICAL PURPOSE

**351—5.1(56) Scope of chapter.** This chapter outlines the permissible and impermissible uses of public resources for a political purpose pursuant to Iowa Code section 56.12A and board interpretations of the statute.

This rule is intended to implement Iowa Code section 56.12A.

**351—5.2(56) Applicability.** This chapter applies to the use of resources that belong to the state, county, city, public school, or other political subdivision by state and local campaigns in Iowa. This chapter does not apply to property belonging to the federal government or to the use of state, county, city, public school, or other political subdivision property by a federal campaign.

This rule is intended to implement Iowa Code section 56.12A.

**351—5.3(56) Definitions.** For purposes of this chapter the following definitions apply:

“Ballot issue” means a question that has been approved to be placed before the voters or is otherwise required by law to be placed before the voters. “Ballot issue” does not include the nomination or election of a candidate.

“Campaign” means the organized effort to expressly advocate the nomination, election, or defeat of a candidate for state or local office in Iowa. “Campaign” also means the organized effort to expressly advocate the passage or defeat of a ballot issue.

“Candidate” means any individual who has taken affirmative action to seek nomination or election to a state or local office in Iowa.

“Expressly advocate” means “express advocacy” as defined in Iowa Code section 56.2(14) and subrule 4.53(1). “Express advocacy” includes a communication that uses any word, term, phrase, or symbol that exhorts an individual to vote for or against a clearly identified candidate or for the passage or defeat of a clearly identified ballot issue.

“Political purpose” means to expressly advocate the nomination, election, or defeat of a candidate or to expressly advocate the passage or defeat of a ballot issue.

“Public resources” means the moneys, time, property, facilities, equipment, and supplies of the state, county, city, public school, or other political subdivision.

This rule is intended to implement Iowa Code sections 56.2 and 56.12A.

**351—5.4(56) Use of public resources for a political purpose prohibited.**

**5.4(1) General prohibition.** Unless one of the exceptions in rule 351—5.5(56) applies, the public officials and public employees of the state, county, city, public school, or other political subdivision shall not permit public resources to be used to expressly advocate the nomination, election, or defeat of a candidate or to expressly advocate the passage or defeat of a ballot issue.

**5.4(2) Specific prohibitions.** For purposes of clarifying the general prohibition on the use of public resources for a political purpose, the board has identified situations in which

the use of public resources for a political purpose is prohibited unless one of the exceptions in rule 351—5.5(56) applies. The following specific conduct or actions are deemed to be the prohibited use of public resources for a political purpose:

a. Using public resources to solicit or accept campaign contributions.

b. Using public resources to solicit votes, engage in campaign work, or poll voters on their preferences for candidates or ballot issues. The prohibition on polling voters by using public resources does not apply to authorized research at a public university.

c. Using a publicly owned motor vehicle to transport political materials, placing campaign signs on a publicly owned motor vehicle, or traveling to campaign-related events in a publicly owned motor vehicle.

d. Leaving a personal vehicle with a campaign sign attached to the vehicle in a public parking lot for longer than 24 consecutive hours. For purposes of this subrule, “campaign sign” does not include bumper stickers.

e. Using public resources to produce and distribute communications that expressly advocate for or against candidates or that expressly advocate for or against ballot issues.

f. Placing campaign materials on public property including the placement of campaign signs in the public right-of-way.

**5.4(3) Transportation maps.** As provided in Iowa department of transportation rule 761—28.3(307), Iowa transportation maps are not to be sold or used for purposes of personal or professional gain. The paper version of the map is not to be altered for distribution in any way, including adding a name or address, by candidates running for political office. This prohibition does not apply to pictures of the governor and lieutenant governor and a personal message to appear on the map.

This rule is intended to implement Iowa Code section 56.12A.

**351—5.5(56) Exceptions from prohibition on use of public resources for a political purpose.**

**5.5(1) Expressing opinion by resolution.** Iowa Code section 56.12A permits the state or a governing body of a county, city, public school, or other political subdivision to express an opinion on a ballot issue through the passage of a resolution or proclamation. It is also permissible for a member of a governing body of a county, city, public school, or other political subdivision to express the member’s opinion on a ballot issue at a public meeting of the governing body.

**5.5(2) Public forum.** Any public resource that is open to any member of the general public to use for other purposes may be used for political purposes, including the distribution of political materials on vehicles that are parked in a public parking lot.

**5.5(3) Candidate debate.** The state, county, city, public school, or other political subdivision may permit the holding of a candidate debate or forum and the accompanying distribution of campaign materials on governmental property so long as at least two candidates seeking the same office attend the debate or forum.

**5.5(4) Reimbursement to governmental body.** The state, county, city, public school, or other political subdivision may permit a person to use a public resource for a political purpose so long as the person reimburses the governmental body for the use of the public resource. The reimbursement shall be for the actual costs of the public resource or at the same amount charged to a person using the public resource for any other purpose.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

**5.5(5)** Communications that do not expressly advocate. Public resources may be used to produce and distribute communications that do not expressly advocate for or against a candidate or that do not expressly advocate for or against a ballot issue.

**5.5(6)** Use of job title. As there is no expenditure of taxpayer funds, job titles may be used for political purposes.

**5.5(7)** Uniforms. The wearing of a uniform associated with a public office is not deemed a violation of Iowa Code section 56.12A so long as the person is not on duty or otherwise using public resources for a campaign.

**5.5(8)** Residence. It is not deemed a violation of Iowa Code section 56.12A for a public official or public employee to use for political purposes the portion of public property that is designated as the personal residence of the public official or public employee.

**5.5(9)** Clothing or paraphernalia. While performing official duties, a public official or public employee may wear clothes or wear political paraphernalia that expressly advocate for or against candidates or that expressly advocate for or against ballot issues. However, the administrative head of a state agency or of a department of a political subdivision may enact an internal policy that would prohibit the wearing of campaign materials on the public property of that agency or subdivision.

**5.5(10)** Posting of campaign literature in classroom. Campaign literature and materials may be posted in a public university or public school classroom as part of the curriculum on government, elections, and campaigning so long as material from at least two candidates for the same office or about both sides of a ballot issue are posted.

This rule is intended to implement Iowa Code section 56.12A.

**351—5.6(68B) Board advice.** Public officials, public employees, or other persons interested in using public funds for a political purpose may first seek advice or guidance from the board concerning the legality of the action or conduct.

**5.6(1)** Advisory opinion. A board advisory opinion applies a statute or rule to a particular factual situation. The procedure for requesting a board opinion is set out in rules 351—1.2(68B) and 1.3(68B). A board opinion, if followed, constitutes a defense to a subsequent complaint concerning the same facts and circumstances.

**5.6(2)** Declaratory order. Persons may also seek board guidance concerning the application of a statute or rule to a specific factual situation through the petition for declaratory order procedure set out in 351—Chapter 12.

**5.6(3)** Board review of a communication. Any person interested in producing and distributing a communication using public resources may submit the communication prior to its distribution for a board determination of whether or not the communication contains express advocacy.

This rule is intended to implement Iowa Code section 68B.32A(11).

**351—5.7(68B) Complaints.** Any person may file a complaint or provide information to the board alleging a violation of Iowa Code section 56.12A or the rules of this chapter by a public official or a public employee. The procedure for filing a complaint or providing information to the board is set out in Iowa Code section 68B.32B and 351—Chapter 9.

This rule is intended to implement Iowa Code section 68B.32B.

**ARC 3043B**

## MEDICAL EXAMINERS BOARD[653]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 147.76 and 148E.7, the Board of Medical Examiners hereby gives Notice of Intended Action to amend Chapter 17, “Licensure of Acupuncturists,” Iowa Administrative Code.

The Board approved the proposed amendments during its regularly held meeting on November 20, 2003.

The proposed amendments require an acupuncturist, after June 1, 2004, to be a diplomate in acupuncture or oriental medicine from the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM).

Any interested person may present written comments on the proposed amendments not later than 4:30 p.m. on January 13, 2004. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medical Examiners, 400 S.W. 8th Street, Suite C, Des Moines, Iowa 50309-4686, or sent by E-mail to [ann.mowery@iowa.gov](mailto:ann.mowery@iowa.gov).

There will be a public hearing on January 13, 2004, at 3 p.m. in the Board office, at which time persons may present their views either orally or in writing. The Board of Medical Examiners office is located at 400 S.W. 8th Street, Suite C, Des Moines, Iowa.

These amendments are intended to implement Iowa Code sections 148E.2(1a) and 272C.3.

The following amendments are proposed.

ITEM 1. Amend subrule **17.4(1)**, paragraph “b,” to read as follows:

b. Hold current active status as a diplomate in NCCAOM: *or, after June 1, 2004, hold current active status as a diplomate in acupuncture or oriental medicine from NCCAOM.*

ITEM 2. Amend subrule **17.5(3)**, paragraph “g,” to read as follows:

g. An official statement from NCCAOM that the applicant holds active status as a diplomate in NCCAOM: *or, after June 1, 2004, an official statement from NCCAOM that the applicant holds active status as a diplomate in acupuncture or oriental medicine;*

ITEM 3. Amend rule 653—17.7(147,148E,272C), introductory paragraph, as follows:

**653—17.7(147,148E,272C) Biennial renewal of license required.** Pursuant to Iowa Code section 148E.2, a license is renewed every two years on November 1 for a fee of \$300 with documented evidence that the licensee has completed the 30 hours of continuing education required by the board. *Renewal Beginning June 1, 2004, renewal shall require evidence of the licensee’s current active status as a diplomate in the National Commission for the Certification of Acupuncturists in acupuncture or oriental medicine from NCCAOM.*

## MEDICAL EXAMINERS BOARD[653](cont'd)

ITEM 4. Amend subrule **17.8(1)**, paragraph “**d**,” to read as follows:

d. Provide an official statement from NCCAOM that the applicant holds current active status as a diplomate of NCCAOM. *After June 1, 2004, provide an official statement from NCCAOM that the applicant holds active status as a diplomate in acupuncture or oriental medicine.*

**ARC 3051B****PUBLIC SAFETY  
DEPARTMENT[661]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)\*b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3 and 321.4, the Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 55, “Volunteer Fire Fighter Training and Equipment Fund,” Iowa Administrative Code.

2003 Iowa Acts, chapter 177, provides an appropriation of \$500,000 to the Fire Marshal Division of the Department of Public Safety “for allocation to the fire service training bureau to establish a revolving loan program for equipment purchases by local fire departments.” The proposed rules establish requirements and procedures for participation in the revolving loan fund. Prior to preparation of this Notice, the State Fire Marshal received a recommendation for rules governing the revolving loan fund from the State Fire Service and Emergency Response Council. While these proposed rules differ in certain respects from the recommendation of the Council, the framework provided by the Council is the basis of the rules.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3050B**. The emergency rules will become effective January 1, 2004, and will enable an initial round of loan applications to be considered and acted upon early in 2004. The schedule for this initial round of applications to be considered will be as follows: (1) The application process will officially open on January 15, 2004; (2) The deadline for submitting applications to be considered in the initial round will be March 1, 2004; and (3) The target date for the Fire Marshal to announce decisions regarding the first round of applications will be April 1, 2004. The emergency rules are similar to the rules proposed in this Notice with one exception. The emergency rules contain an exception to subrule 55.204(1), which specifies the procedures for giving public notice of the availability of loan funds. For the initial round of loans, there will not be a Notice of Availability of Public Funds published in the Iowa Administrative Bulletin prior to the commencement of the application process due to the relatively short time before the application process will open. In the future, it is expected that all loan application processes will be announced by a Notice of Availability of Public Funds in the Iowa Administrative Bulletin, as well as by the other methods specified in subrule 55.204(1).

A public hearing on these proposed amendments will be held on February 5, 2004, at 11 a.m. at the offices of the Fire

Service Training Bureau, 3100 Fire Service Road, Ames, Iowa 50011-3100. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail, by telephone at (515)281-5524, or by electronic mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us), at least one day prior to the public hearing.

Any written comments or information regarding these proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated at least one day prior to the public hearing, or submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

These amendments are intended to implement 2003 Iowa Acts, chapter 177, section 11.

The following amendments are proposed.

ITEM 1. Amend the title of **661—Chapter 55** as follows:

**VOLUNTEER FIRE FIGHTER TRAINING AND  
EQUIPMENT FUND FUNDS**

ITEM 2. Renumber rules **661—55.1(17A,77GA,ch1222)** to **661—55.3(17A,77GA,ch1222)** as **661—55.101(17A,77GA,ch1222)** to **661—55.103(17A,77GA,ch1222)**, reserve rules 661—55.1 to 661—55.100 and 661—55.104 to 661—55.200 and add the following **new** division title before rule 661—55.101(17A,77GA,ch1222):

**DIVISION I****VOLUNTEER FIRE FIGHTER TRAINING AND EQUIPMENT FUND**

ITEM 3. Adopt the following **new** division in 661—Chapter 55:

**DIVISION II****FIRE FIGHTING EQUIPMENT REVOLVING LOAN FUND**

**661—55.201(80GA,ch177) Fire fighting equipment revolving loan fund.** There is established in the fire service training bureau in the fire marshal division the fire fighting equipment revolving loan fund.

**661—55.202(80GA,ch177) Purpose and scope.** The fire fighting equipment revolving loan fund is established to assist local fire departments to complete purchase or repairs of equipment used in the performance of the departments’ fire fighting duties, when the acquisition or repair of such equipment would be impractical in the absence of assistance from the fund. Each payment of funds from the fund to a local fire department shall be a loan awarded in compliance with rules 661—55.201(80GA,ch177) to 661—55.207(80GA,ch177), and shall be for the specific purpose established in a contract entered into between the department of public safety and either the local fire department receiving the funds; or the city, county, or township of which the fire department is a part; or another legal entity authorized to enter into legally binding commitments on behalf of the fire department.

**661—55.203(80GA,ch177) Definitions.** For purposes of rules 661—55.201(80GA,ch177) to 661—55.207(80GA,ch177), the following definitions apply:



## PUBLIC SAFETY DEPARTMENT[661](cont'd)

“Default” or “in default” means that more than one payment on a loan is currently due.

“Local fire department” means a paid, volunteer, or combination fire protection service provided by a benefited fire district under Iowa Code chapter 357B or by a county, municipality or township, or a private corporate organization that has a valid contract to provide fire protection service for a benefited fire district, county, municipality, township or governmental agency. “Local fire department” does not include a military or private industrial fire department or service.

“NFPA” means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form “NFPA xx,” where “xx” is a number, refer to the NFPA standard or pamphlet of the corresponding number.

“PASS” means personal alert safety system.

“SCBA” means self-contained breathing apparatus.

### **661—55.204(80GA,ch177) Application process.**

**55.204(1)** Notice of availability of funds. Whenever funds are available for loans through the fire fighting equipment revolving loan fund, the department shall publish notice of the availability of those funds in the Iowa Administrative Bulletin and shall notify fire service organizations, including, but not limited to, the Iowa Firemen’s Association, the Iowa Fire Chiefs Association, and the Iowa Association of Professional Fire Chiefs, of the availability of those funds, the procedure for applying for loans through the program, the deadline for applying for funds, and the provisions of rules 661—55.201(80GA,ch177) to 661—55.207(80GA,ch177). All local fire departments in Iowa known to the fire service training bureau shall receive notice by mail or, when available, electronic mail. In addition, notice of availability of funds and the application procedure shall be published on the department’s Web site.

**55.204(2)** Application. Application for a loan from the fire fighting equipment revolving loan fund shall be made on an application form provided by the fire service training bureau. A completed application shall be submitted to the fire service training bureau by the deadline specified in the notice of availability of public funds and shall include any attached materials required in the instructions provided with the application form.

a. An application form shall be completed by the local fire department. The application shall include contact information, loan amount requested, purpose of the loan, statement of need, and current financial information, and any additional information specified on the application form or accompanying instructions, and shall be signed by an official authorized to enter into contracts on behalf of the local fire department.

b. In addition to the application, the following information will be required prior to loan approval:

(1) Documentation that the department requesting the loan meets the definition of a “local fire department.”

(2) Financial statements showing income, expenses, assets, liabilities, and sources of income for the department requesting the loan for a three-year period prior to the loan request date.

(3) Verification that the match requirement will be met. A letter from the executive or chief financial officer of the agency funding the match requirement will normally be sufficient.

(4) A copy of the contract, bid specifications, or proposal for purchase of the equipment/apparatus to be purchased with the loan proceeds, or repair work order, if applicable.

### **55.204(3) Loan application review.**

a. The fire marshal, or another staff member of the fire marshal division designated by the fire marshal, and the chief of the fire service training bureau, or another staff member of the fire service training bureau designated by the bureau chief, shall review each application for completeness and compliance with rules 661—55.201(80GA,ch177) to 661—55.207(80GA,ch177). The fire marshal may assign additional staff of the fire marshal division to review applications and may request assistance from other employees of the department of public safety in the review process.

b. The state fire service and emergency response council, or a subcommittee of the council established for this purpose, shall serve as an advisory committee to the fire marshal in the loan application review process, and shall recommend to the fire marshal funding, partial funding, or denial of each application. Recommendations regarding loan applications shall be based upon availability of funds in relation to the total funds requested by eligible applicants, documentation of need for the proposed purchase or repair, and documentation of likely ability of the local fire department applying for a loan to repay the loan.

c. Decisions to award or not to award loans shall be made by the fire marshal.

**55.204(4)** Appeals. If a local fire department’s application is denied or partially funded by the fire marshal, the department may appeal the decision of the fire marshal to the commissioner of public safety using procedures for appeals set out in 661—Chapter 10.

**661—55.205(80GA,ch177) Allowable acquisitions.** Loans from the fire fighting equipment revolving loan fund may be used to acquire the following equipment or repair services, with the limitations indicated:

1. Firefighting apparatus, including pumpers, tankers, ladder trucks, hazardous materials emergency response vehicles, or rescue vehicles. Any apparatus obtained with loan funds must comply with applicable NFPA standards, as identified by the fire marshal. Loans in this category may be awarded in amounts between \$25,000 and \$150,000.

2. Personal protective equipment and communications equipment, including personal protective clothing (structural and wild land) that includes helmets, coats, boots, pants, eye protection, gloves, and protective hoods; SCBA with integrated PASS devices; and radio communications devices. Radio communications devices obtained with loan funds must be interoperable with equipment utilized by agencies with which the agency obtaining the equipment has mutual aid agreements, if such interoperable equipment is available. Equipment obtained must comply with applicable NFPA standards, as identified by the fire marshal. Loans for purchase in this category are limited to amounts between \$10,000 and \$50,000.

3. Repairs made to apparatuses identified in paragraph “1.” Loans in this category are limited to amounts between \$10,000 and \$50,000.

4. Purchase of accessory equipment, including fire suppression equipment such as hoses, ladders, small fireground tools, ventilation equipment, or vehicle extrication and rescue equipment. Equipment obtained with loan funds must comply with applicable NFPA standards, as identified by the fire marshal. Loans in this category are limited to amounts between \$10,000 and \$50,000.

5. The fire marshal, acting on the advice of the fire service and emergency response council, may establish priorities for funding through the revolving loan fund. If such priorities are established, they will be included in the notice of availability of funds and shall be utilized only if the total

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

amount of funding requested exceeds the total funds available to loan.

**661—55.206(80GA,ch177) Eligibility requirements and restrictions.**

**55.206(1)** Any local fire department in the state of Iowa is eligible to apply for a loan.

**55.206(2)** Loan applicants shall be required to provide a 10 percent match.

**55.206(3)** All successful loan applicants shall comply fully with the fire incident reporting requirements (NFIRS) of the fire marshal division.

**55.206(4)** No loan shall be made to a local fire department serving a population in excess of 30,000 people which will result in excess of 50 percent of the total funds loaned at any given time being loaned to local fire departments serving populations in excess of 30,000 people, unless the fire marshal finds that there are no eligible applications pending from local fire departments serving populations of 30,000 people or less.

**55.206(5)** Following approval, loan funds will be provided only after the local fire department receiving the loan submits documentation showing that the department has either acquired, contracted for, or issued a purchase order for the equipment. Disbursement of the loan shall be in the form of a warrant payable either to the local fire department and the vendor or vendors supplying the equipment or repair services, or solely to the vendor or vendors, or, with the approval of the fire marshal, solely to the local fire department receiving the loan.

**55.206(6)** A local fire department is eligible for only one loan during any five-year period, or for the duration of an existing loan from this program, whichever is longer.

**55.206(7)** A local fire department that has been in default on a loan is not eligible for additional loans through this program for a period of two years beyond the time specified in subrule 55.206(6). Any prior history of defaulting on a loan from the revolving loan fund will be taken into account in evaluating a department's ability to repay a loan, pursuant to subrule 55.204(3), paragraph "b."

**55.206(8)** A local fire department receiving a loan is subject to a financial audit and any operational or program audits necessary to verify compliance with any requirements or conditions of the loan.

**661—55.207(80GA,ch177) Loan origination fee and repayment schedule.**

**55.207(1)** Each approved loan shall carry an origination fee of 1 percent of the loan amount, which shall be withheld by the fire service training bureau from the original payout of the loan.

**55.207(2)** A repayment schedule for each loan shall be established at the time the loan is awarded, with a minimum of two payments per year for the duration of the loan. Generally, loans of \$50,000 or less shall be repaid within a five-year period, and loans of more than \$50,000 shall be repaid within a ten-year period, although the fire marshal may allow variations for good cause. There will be no penalty for early payment. Each payment shall be by warrant, check, or money order made payable to Fire Service Training Bureau, Iowa Department of Public Safety, and shall be clearly marked "Repayment of Loan from Fire Fighting Equipment Revolving Loan Fund."

**55.207(3)** During any period when a loan is in default, there shall be a penalty of 1.5 percent of the remaining unpaid principal of the loan per month added to the amount of the loan.

These rules are intended to implement 2003 Iowa Acts, chapter 177, section 11.

**REVENUE DEPARTMENT**

**Notice of Electric and Natural Gas Delivery Tax Rates  
and Municipal Electric and Natural Gas Transfer  
Replacement Tax Rates  
for Each Competitive Service Area**

Pursuant to the authority of Iowa Code sections 437A.4 and 437A.5, the Director of Revenue hereby gives notice of the electric delivery tax rate, the municipal electric transfer replacement tax rate, the natural gas delivery tax rate, and the municipal natural gas transfer replacement tax rate for each competitive service area in the state. These rates will be used in conjunction with the number of kilowatt hours of electricity and the number of therms of natural gas delivered to consumers in calendar year 2003 by each taxpayer to determine the tax due for each taxpayer in the 2004-2005 fiscal year.

**2003 ELECTRIC DELIVERY TAX RATES  
BY SERVICE AREA**

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3226	Akron Municipal Utilities	0.00006592
3201	Algona Municipal Utilities	0.00027701
3205	Alta Municipal Power Plant	0.00009747
3069	Alta Vista Municipal Utilities	0.00000000
3070	Alton Municipal Light & Power	0.00000000
3207	Ames Municipal Electric System	0.00000094
3071	Anita Municipal Utilities	0.00000000
3227	Anthon Municipal Electric Utility	0.00013586
3209	Atlantic Municipal Utilities	0.00024840
3073	Auburn Municipal Utility	0.00000000
3074	Aurelia Mun. Electric Utility	0.00010262
3211	Bancroft Municipal Utilities	0.00089101
3213	Bellevue Municipal Utilities	0.00009854
3228	Bigelow Municipal Electric Utility	0.00220760
3229	Bloomfield Municipal Electric Utility	0.00002962
3075	Breda Mun. Electric System	0.00000000
3076	Brooklyn Municipal Utilities	0.00165903
3216	Buffalo Municipal Electric System	0.00000306
3217	Burt Municipal Electric Utility	0.00000190
3077	Callendar Electric	0.00000000
3078	Carlisle Municipal Utilities	0.00000000
3079	Cascade Municipal Utilities	0.00139652
3221	Cedar Falls Municipal Elec. Utility	0.00033402
3068	City of Afton	0.00000000
3072	City of Aplington	0.00000000
3082	City of Dike	0.00000000
3088	City of Estherville	0.00000000
3089	City of Fairbank	0.00000000
3090	City of Farnhamville	0.00000000
3230	City of Fredericksburg	0.00000326
3106	City of Larchwood	0.00000000
3107	City of Lawler	0.00000000
3108	City of Lehigh	0.00000000
3113	City of Marathon	0.00000000
3311	City of Pella	0.00007160
3125	City of Renwick	0.00000000
3129	City of Sergeant Bluff	0.00000000
3139	City of Westfield	0.00000000
3143	City of Woolstock	0.00000000

## REVENUE DEPARTMENT(cont'd)

3236	Coggon Municipal Light Plant	0.00005311	3307	Osage Municipal Utilities	0.00005051
3237	Coon Rapids Municipal Utilities	0.00042603	3309	Panora Municipal Electric Utility	0.00008391
3242	Corning Municipal Utilities	0.00033130	3119	Paton Municipal Utilities	0.00000000
3080	Corwith Municipal Utilities	0.00000000	3120	Paullina Municipal Utilities	0.00000000
3243	Danville Municipal Electric Utility	0.00000386	3121	Pocahontas Municipal Utilities	0.00000000
3081	Dayton Light & Power	0.00000000	3122	Preston Municipal Utilities	0.00000000
3244	Denison Municipal Utilities	0.00001109	3315	Primghar Municipal Light Plant	0.00001904
3245	Denver Municipal Electric Utility	0.00006110	3123	Readlyn Municipal Utilities	0.00000000
3083	Durant Municipal Electric Plant	0.00000000	3124	Remsen Municipal Utilities	0.00000000
3084	Dysart Municipal Utilities	0.00000000	3318	Rock Rapids Municipal Utilities	0.00000479
3085	Earlville Municipal Utilities	0.00118909	3126	Rockford Municipal Light Plant	0.00000000
3087	Ellsworth Municipal Utilities	0.00000000	3127	Sabula Municipal Utilities	0.00000000
3091	Fonda Municipal Electric	0.00000000	3128	Sanborn Municipal Light & Plant	0.00000000
3252	Fontanelle Municipal Utilities	0.00036448	3130	Shelby Municipal Utilities	0.00000000
3092	Forest City Municipal Utilities	0.00000000	3131	Sibley Municipal Utilities	0.00000000
3231	Glidden Municipal Electric Utility	0.00000198	3321	Sioux Center Municipal Utilities	0.00000106
3093	Gowrie Municipal Utilities	0.00161035	3323	Southern Minnesota Mun. Power	0.00000000
3256	Graettinger Municipal Light Plant	0.00028571	3324	Spencer Municipal Utilities	0.00010190
3094	Grafton Municipal Utilities	0.00000000	3132	Stanhope Municipal Utilities	0.00000000
3258	Grand Junction Municipal Utilities	0.00000477	3360	Stanton Municipal Utilities	0.00000000
3095	Greenfield Municipal Utilities	0.00119687	3326	State Center Municipal Light Plant	0.00034380
3096	Grundy Center Light & Power	0.00022173	3327	Story City Municipal Electric Utility	0.00011463
3232	Guttenberg Municipal Electric	0.00002873	3134	Stratford Municipal Utilities	0.00000000
3263	Harlan Municipal Utilities	0.00137185	3135	Strawberry Point Electric Utility	0.00000000
3097	Hartley Municipal Utilities	0.00000000	3136	Stuart Municipal Utilities	0.00128625
3098	Hawarden Municipal Utility	0.00000000	3328	Sumner Municipal Light Plant	0.00021044
3099	Hinton Municipal Electric/Water	0.00010473	3330	Tipton Municipal Utilities	0.00149179
3267	Hopkinton Municipal Utilities	0.00000806	3332	Traer Municipal Utilities	0.00053159
3100	Hudson Municipal Utilities	0.00000000	3337	Villisca Municipal Power Plant	0.00020736
3101	Independence Light & Power	0.00000000	3137	Vinton Municipal Utilities	0.00000000
3271	Indianola Municipal Utilities	0.00000787	3138	Wall Lake Municipal Utilities	0.00000000
3102	Keosauqua Light & Power	0.00000000	3338	Waverly Light & Power	0.00077560
3103	Kimballton Municipal Utilities	0.00000000	3342	Webster City Municipal Utilities	0.00033602
3104	Lake Mills Municipal Utilities	0.00000000	3345	West Bend Municipal Power Plant	0.00089368
3105	Lake Park Municipal Utilities	0.00000000	3346	West Liberty Municipal Electric Util.	0.00000634
3233	Lake View Municipal Utilities	0.00016863	3347	West Point Municipal Utility System	0.00009639
3274	Lamoni Municipal Utilities	0.00147144	3140	Whittemore Municipal Utilities	0.00000000
3276	LaPorte City Utilities	0.00000909	3141	Wilton Municipal Light & Power	0.00000000
3277	Laurens Municipal Utilities	0.00034020	3351	Winterset Municipal Utilities	0.00147298
3109	Lenox Mun. Light & Power	0.00044973	3142	Woodbine Municipal Utilities	0.00000000
3110	Livermore Municipal Utilities	0.00000000			
3111	Long Grove Mun. Elec./Water	0.00000000			
3282	Manilla Municipal Elec. Utilities	0.00010590	CO. #	IOU's - ELECTRIC	DELIVERY
3112	Manning Municipal Electric	0.00026825	7206	Amana Society Service Co.	TAX RATE
3284	Mapleton Municipal Utilities	0.00009672	7248	Eldridge Electric & Water Utilities	0.00049316
3285	Maquoketa Municipal Electric	0.00004645	7354	Geneseo Municipal Utilities	0.00071007
3288	McGregor Municipal Utilities	0.00000795	7270	IES Utilities	0.00000000
3291	Milford Municipal Utilities	0.00016799	7272	Interstate Power	0.00237888
3114	Montezuma Municipal Light & Power	0.00000000	7289	MidAmerican Energy	0.00104147
3115	Mount Pleasant Municipal Utilities	0.00000000	7296	Nebraska Public Power District	0.00264702
3293	Muscatine Municipal Utilities	0.00009555	7302	Northwestern Public Energy	0.00000000
3116	Neola Light & Water System	0.00000000	7305	Omaha Public Power District	0.00000000
3297	New Hampton Municipal Light Plant	0.00010408	7334	Union Electric	0.00138441
3298	New London Municipal Utility	0.00052973			0.00000000
3304	Ogden Municipal Utilities	0.00006342			
3234	Onawa Municipal Utilities	0.00010932	CO. #	REC's	DELIVERY
3117	Orange City Municipal Utilities	0.00000000	4319	Access Energy Coop	TAX RATE
3118	Orient Municipal Utilities	0.00000000	4203	Allamakee Clayton Electric Coop	0.00082171
					0.00093586

## REVENUE DEPARTMENT(cont'd)

4208	Atchison-Holt Electric Coop	0.00093207	3070	Alton Municipal Light & Power	0.00114694
4214	Boone Valley Electric Coop	0.00090381	3207	Ames Municipal Electric System	0.00215021
4218	Butler County REC	0.00136469	3071	Anita Municipal Utilities	0.00073975
4219	Calhoun County Electric Coop	0.00144773	3227	Anthon Municipal Electric Utility	0.00368980
4220	Cass Electric Coop	0.00004637	3209	Atlantic Municipal Utilities	0.00216825
4224	Central Iowa Power Coop	0.00000000	3073	Auburn Municipal Utility	0.01597148
4225	Chariton Valley Electric Coop	0.00116694	3074	Aurelia Municipal Electric Utility	0.00117232
4235	Clarke Electric Coop	0.00281990	3211	Bancroft Municipal Utilities	0.00643717
4287	Consumers Energy	0.00221059	3213	Bellevue Municipal Utilities	*
4240	Corn Belt Power Coop	0.00000000	3229	Bloomfield Municipal Electric Utility	0.01322858
4246	East-Central Iowa REC	0.00234065	3075	Breda Municipal Electric System	0.00000000
4247	Eastern Iowa Light & Power	0.00072817	3076	Brooklyn Municipal Utilities	0.00000000
4250	Farmers Electric Coop - Greenfield	0.00237767	3216	Buffalo Municipal Electric System	0.00000000
4249	Farmers Electric Coop - Kalona	0.00043783	3217	Burt Municipal Electric Utility	0.00228343
4251	Federated Rural Electric Association	0.00050763	3077	Callendar Electric	*
4253	Franklin Rural Electric Coop	0.00080054	3078	Carlisle Municipal Utilities	0.00042123
4254	Freeborn-Mower Cooperative	0.00101413	3079	Cascade Municipal Utilities	0.00000000
4255	Glidden Rural Electric Coop	0.00092769	3221	Cedar Falls Mun. Electric Utility	0.00303636
4259	Grundy County REC	0.00064887	3068	City of Afton	0.00639414
4260	Grundy Electric Cooperative	0.00055899	3072	City of Aplington	0.00850561
4261	Guthrie County REC	0.00233312	3082	City of Dike	0.00999195
4262	Hancock Co. REC	0.00129269	3088	City of Estherville	0.01216058
4265	Harrison County REC	0.00136127	3089	City of Fairbank	0.00416841
4266	Hawkeye Tri-County Electric Coop	0.00076862	3090	City of Farnhamville	0.00000000
4223	Heartland Power Coop	0.00071699	3230	City of Fredericksburg	0.00639486
4268	Humboldt County REC	0.00099957	3106	City of Larchwood	0.00000000
4273	Iowa Lakes Electric Coop	0.00095406	3107	City of Lawler	0.00752243
4279	Linn County REC	0.00176883	3108	City of Lehigh	0.00290115
4280	Lyon Rural Electric Coop	0.00073567	3113	City of Marathon	0.00186832
4286	Maquoketa Valley Electric Coop	0.00221262	3311	City of Pella	0.00315702
4290	Midland Power Cooperative	0.00199265	3125	City of Renwick	*
4299	Nishnabotna Valley REC	0.00086586	3129	City of Sergeant Bluff	*
4300	North West Rural Electric Coop	0.00058761	3139	City of Westfield	0.00959230
4301	Northwest Iowa Power Coop	0.00000000	3143	City of Woolstock	0.00000000
4308	Osceola Electric Coop	0.00048395	3236	Coggon Municipal Light Plant	0.00000000
4310	Pella Cooperative Electric	0.00194961	3237	Coon Rapids Municipal Utilities	0.00238174
4313	Pleasant Hill Community Line	0.00028530	3242	Corning Municipal Utilities	0.00000000
4316	Rideta Electric Coop	0.00292371	3080	Corwith Municipal Utilities	0.00000000
4320	Sac County Rural Electric Coop	0.00110413	3243	Danville Municipal Electric Utility	0.00000000
4322	Southern Iowa Electric Coop	0.00152198	3081	Dayton Light & Power	0.00189488
4200	Southwest Iowa Service Coop	0.00289110	3244	Denison Municipal Utilities	0.00140304
4329	T.I.P. Rural Electric Coop	0.00217871	3245	Denver Municipal Electric Utility	0.00655594
4333	Tri County Electric Coop	0.00130837	3083	Durant Municipal Electric Plant	0.00000000
4336	United Electric Coop	0.00112324	3084	Dysart Municipal Utilities	0.00513711
4348	Western Iowa Power Coop	0.00098068	3085	Earlville Municipal Utilities	*
4352	Woodbury County REC	0.00120010	3086	Eldridge Electric & Water Utility	*
4353	Wright Co. REC	0.00057544	3087	Ellsworth Municipal Utilities	0.00355613
			3091	Fonda Municipal Electric	0.01247665
			3252	Fontanelle Municipal Utilities	0.00167704
			3092	Forest City Municipal Utilities	0.00204380
			3231	Glidden Municipal Electric Utility	0.01142498
			3093	Gowrie Municipal Utilities	0.00000000
			3256	Graettinger Municipal Light Plant	0.00116031
			3094	Grafton Municipal Utilities	0.02049278
			3258	Grand Junction Municipal Utilities	0.00093231
			3095	Greenfield Municipal Utilities	0.00269710
			3096	Grundy Center Light & Power	0.00140779
			3232	Guttenberg Municipal Electric	0.00578166

2003 MUNICIPAL ELECTRIC  
TRANSFER REPLACEMENT TAX RATES

CO. #	COMPANY	REPLACE- MENT TAX RATE
3226	Akron Municipal Utilities	0.00344517
3201	Algona Municipal Utilities	0.00177990
3205	Alta Municipal Power Plant	0.00170097
3069	Alta Vista Municipal Utilities	0.00000000

## REVENUE DEPARTMENT(cont'd)

3263	Harlan Municipal Utilities	0.00261896	3136	Stuart Municipal Utilities	0.00169089
3097	Hartley Municipal Utilities	0.00017897	3328	Sumner Municipal Light Plant	0.00100714
3098	Hawarden Municipal Utility	0.01118444	3330	Tipton Municipal Utilities	*
3099	Hinton Municipal Electric/Water	0.00062800	3332	Traer Municipal Utilities	0.00161536
3267	Hopkinton Municipal Utilities	0.00000000	3337	Villisca Municipal Power Plant	0.00000000
3100	Hudson Municipal Utilities	0.01887585	3137	Vinton Municipal Utilities	0.00507743
3101	Independence Light & Power	0.00198274	3138	Wall Lake Municipal Utilities	0.00746368
3271	Indianola Municipal Utilities	0.00178981	3338	Waverly Light & Power	0.00464899
3102	Keosauqua Light & Power	0.00000000	3342	Webster City Municipal Utilities	0.00128453
3103	Kimballton Municipal Utilities	0.00000000	3345	West Bend Municipal Power Plant	0.00240726
3104	Lake Mills Municipal Utilities	0.00302460	3346	West Liberty Municipal Electric Util.	*
3105	Lake Park Municipal Utilities	0.00148593	3347	West Point Municipal Utility System	0.00000000
3233	Lake View Municipal Utilities	0.00732674	3140	Whittemore Municipal Utilities	*
3274	Lamoni Municipal Utilities	0.00208855	3141	Wilton Municipal Light & Power	0.00000000
3276	LaPorte City Utilities	0.00094890	3351	Winterset Municipal Utilities	0.00000000
3277	Laurens Municipal Utilities	0.00438786	3142	Woodbine Municipal Utilities	0.00040339
3109	Lenox Municipal Light & Power	0.00032065	* No rate provided to the Department by the Municipal		
3110	Livermore Municipal Utilities	0.00613298			
3111	Long Grove Mun. Elec./Water	0.00000000			
3282	Manilla Municipal Elec. Utilities	0.00127104			
3112	Manning Municipal Electric	0.00057285			
3284	Mapleton Municipal Utilities	0.00290129			
3285	Maquoketa Municipal Electric	0.00124273			
3288	McGregor Municipal Utilities	0.00226946			
3291	Milford Municipal Utilities	0.00000000			
3114	Montezuma Municipal Light & Power	0.00167895			
3115	Mount Pleasant Municipal Utilities	0.00011303			
3293	Muscatine Municipal Utilities	0.00000000			
3116	Neola Light & Water System	0.00000000			
3297	New Hampton Municipal Light Plant	0.00204164			
3298	New London Municipal Utility	0.00198111			
3304	Ogden Municipal Utilities	0.00188177			
3234	Onawa Municipal Utilities	0.00187049			
3117	Orange City Municipal Utilities	0.00087103			
3118	Orient Municipal Utilities	0.00000000			
3307	Osage Municipal Utilities	0.00054353			
3309	Panora Municipal Electric Utility	0.00491598			
3119	Paton Municipal Utilities	0.00203746			
3120	Paullina Municipal Utilities	0.01192334			
3121	Pocahontas Municipal Utilities	0.00733720			
3122	Preston Municipal Utilities	0.05393288			
3315	Primghar Municipal Light Plant	0.00327457			
3123	Readlyn Municipal Utilities	0.00000000			
3124	Remsen Municipal Utilities	0.00261246			
3318	Rock Rapids Municipal Utilities	0.00362264			
3126	Rockford Municipal Light Plant	0.00000000			
3127	Sabula Municipal Utilities	0.00096055			
3128	Sanborn Municipal Light & Plant	0.00574835			
3130	Shelby Municipal Utilities	*			
3131	Sibley Municipal Utilities	0.00902583			
3321	Sioux Center Municipal Utilities	0.00221456			
3324	Spencer Municipal Utilities	0.00320303			
3132	Stanhope Municipal Utilities	0.01687901			
3133	Stanton Municipal Utilities	0.00086617			
3326	State Center Municipal Light Plant	0.00013550			
3327	Story City Municipal Electric Utility	*			
3134	Stratford Municipal Utilities	0.00000000			
3135	Strawberry Point Electric Utility	0.00205768			

2003 NATURAL GAS DELIVERY TAX RATES  
BY SERVICE AREA

CO. #	MUNICIPAL GAS	DELIVERY TAX RATE
5021	Bedford Municipal Gas	0.00000000
5215	Brighton Gas	0.06591442
5023	Brooklyn Municipal Gas	0.00000000
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	0.00000000
5022	City of Bloomfield	0.00000000
5026	City of Clearfield	0.00000000
5028	City of Everly	0.00000000
5029	City of Fairbank	0.00000000
5238	Coon Rapids Municipal Gas	0.00002413
5241	Corning Municipal Gas	0.00000108
5027	Emmetsburg Municipal Gas	0.00000000
5030	Gilmore City Municipal Gas	0.00000000
5031	Graettinger Municipal Gas	0.00000000
5032	Guthrie Center Municipal Gas	0.00000000
5033	Harlan Municipal Gas	0.00000000
5034	Hartley Municipal Gas	0.00000000
5035	Hawarden Municipal Gas	0.00000000
5036	Lake Park Municipal Gas	0.00000000
5275	Lamoni Municipal Gas	0.00093091
5037	Lenox Municipal Gas	0.00000000
5038	Lineville City Natural Gas	0.00000000
5039	Lorimor Municipal Gas	0.00000000
5281	Manilla Municipal Gas	0.00371648
5283	Manning Municipal Gas	0.00019155
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	0.00000000
5042	Moulton Municipal Gas	0.00000000
5306	Osage Municipal Gas	0.00003376
5043	Prescott Municipal Gas	0.00000000
5044	Preston Municipal Gas	0.00000000
5055	Remsen Municipal Gas	0.00000000
5317	Rock Rapids Municipal Gas	0.00007706
5056	Rolfe Municipal Gas	0.00000000
5057	Sabula Municipal Gas	0.00000000

## REVENUE DEPARTMENT(cont'd)

5058	Sac City Municipal Gas	0.00000000
5059	Sanborn Municipal Gas	0.00000000
5060	Sioux Center Municipal Gas	0.00000000
5061	Tipton Municipal Gas	0.00000000
5063	Waukee Municipal Gas	0.00000000
5340	Wayland Municipal Gas	0.00307740
5064	Wellman Municipal Gas	0.00000000
5344	West Bend Municipal Gas	0.00002165
5065	Whittemore Municipal Gas	0.00000000
5349	Winfield Municipal Gas	0.00046157
5066	Woodbine Gas	0.00000000
		DELIVERY
CO. #	IOU's - GAS	TAX RATE
5204	Allerton Gas	0.01588131
5270	IES Utilities	0.01204344
5272	Interstate Power	0.01839562
5289	MidAmerican Energy	0.01103529
5312	Peoples Natural Gas	0.00927983
5335	United Cities Gas	0.00647805

2003 MUNICIPAL NATURAL GAS TRANSFER  
REPLACEMENT TAX RATES

CO. #	COMPANY	REPLACE- MENT TAX RATE
5021	Bedford Municipal Gas	0.07690455
5215	Brighton Gas	0.00000000
5023	Brooklyn Municipal Gas	0.00000000
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	0.00909786
5022	City of Bloomfield	0.01327516
5026	City of Clearfield	0.00000000
5028	City of Everly	*
5029	City of Fairbank	0.00000000
5238	Coon Rapids Municipal Gas	0.00195837
5241	Corning Municipal Gas	0.00000000
5027	Emmetsburg Municipal Gas	0.02973221
5030	Gilmore City Municipal Gas	0.00000000
5031	Graettinger Municipal Gas	0.06964485
5032	Guthrie Center Municipal Gas	0.00000000
5033	Harlan Municipal Gas	0.00694399
5034	Hartley Municipal Gas	0.00250246
5035	Hawarden Municipal Gas	0.14169664
5036	Lake Park Municipal Gas	0.00485206
5275	Lamoni Municipal Gas	0.00573554
5037	Lenox Municipal Gas	0.37127841
5038	Lineville City Natural Gas	0.00000000
5039	Lorimor Municipal Gas	0.00774948
5281	Manilla Municipal Gas	0.11548593
5283	Manning Municipal Gas	0.02756740
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	0.00000000
5042	Moulton Municipal Gas	0.09944916
5306	Osage Municipal Gas	0.01226936
5043	Prescott Municipal Gas	0.00000000
5044	Preston Municipal Gas	0.22444812

5055	Remsen Municipal Gas	0.03432498
5317	Rock Rapids Municipal Gas	0.00901858
5056	Rolfe Municipal Gas	0.06793478
5057	Sabula Municipal Gas	0.00846684
5058	Sac City Municipal Gas	0.05006287
5059	Sanborn Municipal Gas	0.03182530
5060	Sioux Center Municipal Gas	0.00995691
5061	Tipton Municipal Gas	*
5067	Wall Lake Municipal Gas	0.00000000
5063	Waukee Municipal Gas	0.01317245
5340	Wayland Municipal Gas	0.00000000
5064	Wellman Municipal Gas	0.01975359
5344	West Bend Municipal Gas	0.02796514
5065	Whittemore Municipal Gas	*
5349	Winfield Municipal Gas	0.00000000
5066	Woodbine Gas	0.04385916

\* No rate provided to the Department by the Municipal

## ARC 3061B

## REVENUE DEPARTMENT[701]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 38, “Administration,” Chapter 39, “Filing Return and Payment of Tax,” Chapter 40, “Determination of Net Income,” Chapter 41, “Determination of Taxable Income,” Chapter 42, “Adjustments to Computed Tax,” Chapter 43, “Assessments and Refunds,” Chapter 46, “Withholding,” Chapter 50, “Apportionment of Income for Resident Shareholders of S Corporations,” Chapter 52, “Filing Returns, Payment of Tax and Penalty and Interest,” Chapter 53, “Determination of Net Income,” Chapter 54, “Allocation and Apportionment,” Chapter 59, “Determination of Net Income,” and Chapter 89, “Fiduciary Income Tax,” Iowa Administrative Code.

These proposed amendments clarify existing rules, remove obsolete rules or rule provisions, and correct references to Department organization. These amendments are proposed to clean up these existing rules.

Item 1 amends rule 701—38.8(422) to reflect the proper delegation by the Director related to audits and examinations.

Item 2 amends paragraph 39.6(2)“f” to eliminate a cross reference to a rule which is rescinded under Item 5.

Item 3 amends rule 701—40.1(422) to correct an incorrect cross reference.

Item 4 amends subparagraph 40.18(1)“a”(1) to eliminate a reference to a Revenue Ruling which has been revoked.

Item 5 rescinds rule 701—40.28(422), which is an obsolete rule regarding losses from passive farming activities. This rule only covered tax year 1986.

Item 6 amends rule 701—41.3(422) to clarify how the federal tax deduction and federal refund should be computed

## REVENUE DEPARTMENT[701](cont'd)

when refundable federal income tax credits, such as the earned income tax credit and the motor vehicle fuel tax credit, reduce the federal tax liability.

Item 7 rescinds rule 701—42.10(422), which is an obsolete rule regarding a seed capital income tax credit. This credit is no longer applicable.

Items 8, 9 and 10 amend 43.3(1), 46.3(2)“a” and 46.4(5), respectively, to correct outdated departmental organization references brought about by reorganization.

Item 11 amends rule 701—50.3(422) to clarify what is considered a distribution for purposes of the apportionment of income for resident shareholders of S corporations.

Item 12 amends subrule 52.1(3) to correct a reference to a court case.

Item 13 amends rule 701—52.12(422) to clarify the sequence of tax credits to be taken.

Item 14 amends subparagraph 53.2(1)“a”(1) to eliminate a reference to a Revenue Ruling which has been revoked.

Item 15 amends rule 701—53.19(422) to correct a reference to a court case.

Items 16 and 17 amend subrule 54.6(3) to clarify what is considered a financial organization and to clarify how income from a financial organization should be sourced.

Item 18 amends rule 701—59.1(422) to correct an incorrect cross reference.

Items 19 and 20 amend paragraphs 89.8(7)“t” and 89.8(8)“c,” respectively, to correct two cross references.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than January 26, 2004, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before January 13, 2004. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by January 16, 2004.

These amendments are intended to implement Iowa Code chapter 422.

The following amendments are proposed.

ITEM 1. Amend rule 701—38.8(422) as follows:

**701—38.8(422) Delegations to audit and examine.** Pursuant to statutory authority, the director delegates to the director of the audit and compliance division ~~authorized assistants and employees~~ the power to examine returns and make audits; and to determine the correct amount of tax due, subject to review by or appeal to the director. ~~The power so delegated may further be delegated by the director of the audit and compliance division to auditors, agents, examiners, clerks, and employees of the audit and compliance division as the director shall designate.~~

This rule is intended to implement Iowa Code section 422.70.

ITEM 2. Amend subrule **39.6(2)**, paragraph “f,” second unnumbered paragraph, as follows:

A loss incurred from a farming business, as defined in Section 464(e) of the Internal Revenue Code, will not be considered for purposes of this paragraph to the extent that the loss is used in computing net income under Iowa Code section 422.7 and in rule 701—40.28(422).

ITEM 3. Amend rule 701—40.1(422) as follows:

**701—40.1(422) Net income defined.** Net income for state individual income tax purposes shall mean federal adjusted gross income as properly computed under the Internal Revenue Code and shall include the adjustments in 40.2(422) to 40.10(422). The remaining provisions of this rule and 40.12(422) to 40.37 64(422) shall also be applicable in determining net income.

This rule is intended to implement Iowa Code section 422.7.

ITEM 4. Amend subrule **40.18(1)**, paragraph “a,” subparagraph (1), as follows:

(1) Accrual basis taxpayers shall accrue refunds of federal income taxes to the year in which the net operating loss occurs. ~~See Revenue Ruling 69-372 for similar federal treatment of state income tax.~~

ITEM 5. Rescind and reserve rule **701—40.28(422)**.

ITEM 6. Amend rule 701—41.3(422) as follows:

Amend the introductory paragraph and numbered paragraphs “1” to “4” as follows:

**701—41.3(422) Federal income tax deduction and federal refund.** Federal income taxes paid or accrued during the tax year are a permissible deduction for Iowa income tax purposes, *adjusted by any federal income tax refunds*. Taxpayers who are not on an accrual basis of accounting shall deduct their federal income taxes in the year paid. ~~Deductible federal income taxes for cash basis taxpayers shall include:~~

**41.3(1) Federal income tax deduction.** *The federal income tax deduction for cash basis taxpayers equals the sum of the following:*

1 *a.* The entire amount of federal income tax withheld during the taxable year from compensation of the taxpayer. The actual federal income tax withheld from wages earned by either spouse or both spouses must be deducted by each in accordance with wage statement(s) and may not be prorated between the spouses.

2 *b.* Tax paid at any time during the taxable year on a filing of federal estimated tax or on any amendment to such filing. Where a husband and wife file separate Iowa returns or separately on a combined Iowa return, the federal estimated tax payments made in the tax year shall be prorated between the spouses by the ratio of each spouse’s income not subject to withholding to the total income not subject to withholding of both spouses, including the federal estimated tax payment

## REVENUE DEPARTMENT[701](cont'd)

made in January of the tax year which was made for the prior tax year. If an estimated tax payment or portion of the payment is made for self-employment tax, then the spouse that who has earned the self-employment income shall report the amount of estimated tax designated as self-employment tax. The federal tax deduction for the tax year does not include the self-employment tax paid through the federal estimated payments made in the tax year. However, one-half of the self-employment tax paid in the tax year is deductible in computing federal adjusted gross income pursuant to Section 164(f) of the Internal Revenue Code so this self-employment tax is also deductible in computing net income.

3 c. Any additional federal tax on a prior federal return paid during the taxable year. Where a husband and wife file separately or separately on a combined Iowa return, additional federal tax paid shall be prorated between the spouses by the ratio of net income reported by each spouse to total net income of both spouses in the year for which the additional federal tax was paid. If additional federal tax paid includes federal self-employment tax, then that amount of self-employment tax shall be deducted by the spouse that who earned the self-employment income.

d. *The earned income credit computed under Section 32 of the Internal Revenue Code and the additional child care credit computed under Section 24(d) of the Internal Revenue Code, to the extent that these credits reduce the federal income tax liability on the prior federal return filed during the taxable year. Where a husband and wife file separately or separately on a combined Iowa return, the earned income credit and the additional child care credit shall be prorated between the spouses by the ratio of net income reported by each spouse to total net income of both spouses in the year for which these credits were claimed.*

*EXAMPLE: Individual A filed a 2003 federal income tax return reporting a tax liability of \$2,000. Individual A had \$500 of federal income tax withheld and \$2,500 of earned income credit. Individual A can deduct \$500 as a federal income tax deduction on the Iowa return for 2003 and \$1,500 as a federal tax deduction on the Iowa return for 2004, since the federal tax deduction is limited to the extent it reduced the federal income tax liability.*

e. *The motor vehicle fuel tax credit computed under Section 34 of the Internal Revenue Code for the taxable year. Where a husband and wife file separately or separately on a combined Iowa return, the motor vehicle fuel tax credit shall be prorated between the spouses by the ratio of net income reported by each spouse to total net income of both spouses in the year for which these credits were claimed.*

*EXAMPLE: Individual B filed a 2003 federal income tax return reporting a tax liability of \$1,500. Individual B paid \$1,000 in federal estimated tax during 2003 and claimed a \$400 motor vehicle fuel tax credit on the 2003 federal return. Individual B can deduct \$1,400 as a federal income tax deduction on the Iowa return for 2003.*

#### 41.3(2) Federal income tax refunds.

4 a. Any refund of federal income tax received during the taxable year must be used to reduce the amount deducted for federal income tax to the extent the refunded amount was deducted on the Iowa return in a prior year. When a husband and wife file separately or separately on a combined Iowa return, the federal income tax refund to be reported shall be prorated between the spouses by the ratio of net income reported by each spouse to total net income reported by both spouses. If an amount of self-employment tax is required to be added back to Iowa net income, then the spouse that who earned the self-employment income which generated the

self-employment tax shall report that amount as an addition to net income.

b. *Any portion of the federal refund received due to the earned income credit computed under Section 32 of the Internal Revenue Code or the additional child care credit computed under Section 24(d) of the Internal Revenue Code does not have to be reported on the Iowa return. However, any portion of the federal refund received due to the motor vehicle fuel tax credit computed under Section 34 of the Internal Revenue Code does have to be reported on the Iowa return.*

*EXAMPLE 1: Individual A filed a 2003 federal income tax return reporting a tax liability of \$2,000. Individual A had \$500 of federal income tax withheld and \$2,500 of earned income credit and received a federal income tax refund of \$1,000 after filing the return in 2004. Individual A does not have to report the \$1,000 federal refund on the Iowa return for 2004, since the refund resulted from the earned income credit.*

*EXAMPLE 2: Individual B filed a 2003 federal income tax return reporting a tax liability of \$500. Individual B had \$1,000 of federal income tax withheld and \$1,000 of earned income credit and received a federal income tax refund of \$1,500 after filing the return in 2004. Individual A must report a \$500 federal refund on the Iowa return for 2004, since the portion of the refund relating to the earned income credit does not have to be reported.*

*EXAMPLE 3: Individual C filed a 2003 federal income tax return reporting a tax liability of \$1,000. Individual C paid \$900 in federal estimated tax and claimed a \$400 federal motor vehicle fuel tax credit and received a federal refund of \$300 after filing the return in 2004. Individual C must report the \$300 federal refund on the Iowa return for 2004, since the refund resulted from the motor vehicle fuel tax credit.*

Renumber existing subrules **41.3(1)** through **41.3(4)** as **41.3(3)** through **41.3(6)**.

#### ITEM 7. Rescind and reserve rule **701—42.10(422)**.

#### ITEM 8. Amend subrule 43.1(1) as follows:

**43.1(1)** Notice of adjustments. ~~An agent, auditor, clerk or a department employee of the audit and compliance division,~~ designated by the director of the division to examine returns and make audits; who discovers discrepancies in returns or learns that the income of the taxpayer may not have been listed, in whole or in part, or that no return was filed when one was due, is authorized to notify the taxpayer of this discovery by ordinary mail. ~~Such The notice shall not be termed an assessment, and it may inform the taxpayer what amount would be due if the information discovered is correct.~~

#### ITEM 9. Amend subrule **46.3(2)**, paragraph “a,” third and fourth unnumbered paragraphs, as follows:

Employers are required to submit withholding certificates on at least a calendar quarter basis to the following address:

Iowa Department of Revenue and Finance  
Audit and Compliance Division  
Hoover State Office Building  
P.O. Box 10456  
Des Moines, Iowa 50306

#### ITEM 10. Amend subrule **46.4(5)**, last unnumbered paragraph, as follows:

Applications for exemption from withholding for nonresident employees engaged in film production or television production should be directed to the Taxpayer Services Section, Technical Services Compliance Division, Iowa Department



## REVENUE DEPARTMENT[701](cont'd)

of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

ITEM 11. Amend rule 701—50.3(422) as follows:

**701—50.3(422) Distributions.** Distributions from income not previously taxed by Iowa include the amount of all cash distributions and the fair market value of all property distributions made during the year, except as follows:

1. Distributions from income not subject to Iowa tax *due to exclusion under Iowa Code section 422.7* (i.e., interest from federal securities or certain securities issued by Iowa). For purposes hereof, all distributions for a year shall be deemed to be made proportionally from income subject to Iowa tax and from income not subject to Iowa tax. Distributions from income apportioned ~~out~~ *outside* of Iowa shall not be deemed to be made from income not subject to Iowa tax.

2. Distributions from income previously taxed by Iowa for a year in which the S corporation was a C corporation and which is taxed as a dividend or capital gain for federal income tax purposes.

3. Distributions from income previously taxed by Iowa for a year prior to the first tax year the resident shareholder elected to apportion income within and without Iowa.

4. Distributions treated as a return of capital for federal income tax purposes *for tax years beginning prior to January 1, 2004.*

5. *For tax years beginning on or after January 1, 2004, any distributions paid from income for which the taxpayer can prove that Iowa tax has been previously paid. Any distributions paid from income apportioned outside of Iowa for tax years in which the resident shareholder elected to apportion income within and without Iowa will be considered distributions for which Iowa tax has not been previously paid, and cannot be excluded for purposes of this rule.*

For purposes of this rule, a distribution is taken into account on the date the corporation makes the distribution, regardless of when the distribution is treated as received by the shareholder. Distributions shall first be deemed made from current year income of the S corporation to the extent thereof. If distributions during a year exceed the current income of the S corporation, any excess distributions shall be considered made *first from the immediately preceding year income of the S corporation, and then to each preceding year income of the S corporation in reverse chronological order, and then in accordance with the ordering rules set forth in Section 1368 of the Internal Revenue Code and the regulations thereunder.*

*EXAMPLE: An S corporation earned income of \$20,000 in 2002, income of \$30,000 in 2003 and income of \$40,000 in 2004. The S corporation made no distributions during 2002 and 2003 and made distributions of \$75,000 during 2004. The distributions will come first from the \$40,000 income earned in 2004. The excess distributions of \$35,000 will come first from the \$30,000 income earned during 2003, and the remaining \$5,000 will come from the income earned during 2002.*

ITEM 12. Amend subrule 52.1(3), introductory paragraph and first unnumbered paragraph, as follows:

**52.1(3)** Corporate activities creating taxability. “Solicitation of orders” within Public Law 86-272 is limited to those activities which explicitly or implicitly propose a sale or which are entirely ancillary to requests for purchases. Activities that are entirely ancillary to requests for purchases are ones that serve no independent business function apart from their connection to the soliciting of orders. An activity that is not ancillary to requests for purchases is one that a corporation (taxpayer) has a reason to do anyway whether or not it

chooses to allocate it to its sales force operating in Iowa (such as repair, installation, service-type activities, or collection on accounts, etc.). Activities that take place after a sale ordinarily will not be entirely ancillary to a request for purchases and, therefore, ordinarily will not be considered in “solicitation of orders.” *Wisconsin Department of Revenue v. William Wrigley, Jr. Company*, 60 U.S.L.W. 4622, 505 U.S. 214, 120 L.Ed.2d 174, 112 S.Ct. 2447 (1992).

De minimis activities which are not “solicitation of orders” are protected under Public Law 86-272. Whether in-state nonsolicitation activities are sufficiently de minimis to avoid loss of tax immunity depends upon whether those activities establish only a trivial additional connection with the taxing state. Whether a corporation’s nonsolicitation in-state activities are de minimis should not be decided solely by the quantity of one type of such activity but, rather, all types of nonsolicitation activities of the taxpayer should be considered in their totality. *Wisconsin v. Wrigley*, 60 U.S.L.W. 4622, 505 U.S. 214, 120 L.Ed.2d 174, 112 S.Ct. 2447 (1992). Frequency of the activity may be relevant, but an isolated activity is not invariably trivial. The mere fact that an activity involves small amounts of money or property does not invariably mean it is trivial.

ITEM 13. Amend rule 701—52.12(422) as follows:

**701—52.12(422) Deduction of credits.** The credits against computed tax set forth in Iowa Code section 422.33 shall be deducted in the following sequence.

1. ~~Property rehabilitation credit~~ *Venture capital credits.*
2. ~~New jobs~~ *Endow Iowa tax credit.*
3. ~~Investment~~ *University-based research utilization program tax credit.*
4. ~~Franchise Investment~~ *tax credit.*
5. ~~Alternative minimum tax~~ *New jobs credit.*
6. ~~Research activities~~ *Franchise tax credit.*
7. ~~Assistive device~~ *Alternative minimum tax credit.*
8. ~~Motor fuel~~ *Property rehabilitation credit.*
9. ~~Estimated tax and payments with vouchers~~ *Ethanol blended gasoline tax credit.*
10. *Research activities credit.*
11. *Assistive device credit.*
12. *Motor fuel credit.*
13. *Estimated tax and payments with vouchers.*

ITEM 14. Amend subrule 53.2(1), paragraph “a,” subparagraph (1), as follows:

(1) Accrual basis taxpayers shall accrue refunds of federal income taxes to the year in which the net operating loss occurs. ~~(See Revenue Ruling 69-372 for similar federal treatment of state income tax.)~~

ITEM 15. Amend rule 701—53.19(422) as follows:

**701—53.19(422) Deduction of foreign dividends.** For tax years beginning on or after January 1, 1992, corporations may claim a deduction based on percentage of ownership as set forth in Section 243 of the Internal Revenue Code for foreign dividends including Subpart F income as defined in Section 952 of the Internal Revenue Code. See *Kraft General Foods, Inc. v. Iowa Department of Revenue and Finance*, 505 U.S. 71, 120 L.Ed.2d 59, 112 S.Ct. 2365 (1992).

This rule is intended to implement Iowa Code section 422.35.

ITEM 16. Amend subrule 54.6(3), paragraph “b,” subparagraph (2), as follows:

## REVENUE DEPARTMENT[701](cont'd)

(2) Gross profits from trading in stocks, bonds or other securities ~~managed~~ *rendered for a customer located within this state;*

ITEM 17. Amend subrule **54.6(3)**, last unnumbered paragraph, as follows:

A “financial organization” means ~~an association, joint stock company or corporation a substantial part of whose assets consists of intangible personal property and a substantial part of whose gross income consists of dividends or interest or other charges resulting from the use of money or credit. any finance company or investment company doing business in Iowa. A finance company includes any consumer finance company, sales finance company, or commercial finance company making loans to individuals and businesses. An investment company includes a company primarily engaged in the business of investing, reinvesting, owning, holding or trading in securities.~~

ITEM 18. Amend rule 701—59.1(422), introductory paragraph, as follows:

**701—59.1(422) Computation of net income for financial institutions.** “Net income” for state purposes shall mean federal taxable income, before deduction for net operating losses, as properly computed under the Internal Revenue Code, and shall include the adjustments in rules 59.2(422) to 59.13(422). The remaining provisions of this rule and rules 59.14(422) to 59.22 23(422) shall also be applicable in determining net income.

ITEM 19. Amend subrule **89.8(7)**, paragraph “**t**,” numbered paragraph “**4**,” as follows:

4. Federal income tax owed by a nonresident decedent at the time of death must be prorated on the basis the Iowa income included in the federal adjusted gross income bears to the total federal adjusted gross income. See 701—subrule 41.3(2 4) for prorating the federal income tax deduction for nonresident individuals.

ITEM 20. Amend subrule **89.8(8)**, paragraph “**c**,” as follows:

c. Taxes. The taxes deductible against the gross income of an estate or trust are limited to the taxes deductible for individual income tax purposes under 26 U.S.C. Section 164, subject to the adjustments specified in Iowa Code section 422.9 relating to federal and state income taxes. Real estate and personal property taxes, including the taxes due, but unpaid at death, are only deductible by the estate on the decedent’s property which is subject to the personal representative’s right of possession. Federal income tax on the income of an estate or trust and federal income tax owing by an Iowa decedent at the time of death, including the federal income tax owing on the decedent’s final return for the year of death, are deductible by the estate or trust in the year paid. The federal income tax liability of a nonresident decedent must be prorated for tax years on or before December 31, 1981. For tax years on or after January 1, 1982, the federal income tax deduction attributable to Iowa by nonresidents of Iowa shall be the same deduction as is available for resident taxpayers. See 701—subrule 41.3(2 4) and Iowa Code section 422.5(1)“j.” Examples of taxes not deductible include, but are not limited to: federal estate tax (except federal estate tax paid on income in respect of a decedent); Iowa income and inheritance tax; federal gift taxes; and special assessments increasing the value of property. See 26 U.S.C. Section 275. See 89.8(7)“r” for the proration of federal income tax for foreign situs estates and trusts. In addition, foreign situs estates and trusts are not allowed a deduction from Iowa gross in-

come for real and personal property taxes paid on property located outside Iowa.

**ARC 3062B**

## REVENUE DEPARTMENT[701]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.17(19) and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 38, “Administration,” Chapter 40, “Determination of Net Income,” Chapter 41, “Determination of Taxable Income,” Chapter 42, “Adjustments to Computed Tax,” and Chapter 43, “Assessments and Refunds,” Iowa Administrative Code.

These amendments clarify existing rules and remove obsolete rules or rule provisions.

Item 1 amends rule 38.10(422) to indicate that the requirement that the state general fund balance on June 30 of the prior year had to be \$60 million or more before there could be indexation of the tax rate brackets for the current year was repealed.

Item 2 rescinds subrules 38.10(1) to 38.10(17), which are obsolete subrules regarding cumulative inflation factors.

Item 3 amends rule 701—40.17(422) to clarify that taxpayers moving into Iowa may adjust the Iowa-source gross income on Schedule IA 126 by the moving expense allowed under the Internal Revenue Code and that any reimbursement for moving expense for these individuals is to be included in Iowa-source gross income. The amendment clarifies that taxpayers moving from Iowa to another state or country may not adjust the Iowa-source gross income by the moving expense and that any reimbursement of moving expense for these taxpayers is not allocated to Iowa.

Item 4 amends Example 6 of subrule 40.38(7) by showing that the capital losses in the example are not applied against the capital gain from the sale of the farmland in the farming business. This is because the taxpayer’s capital losses were not related to the farming business. The revision in this subrule was the result of a determination in a protested case.

Item 5 amends subrule 41.5(7) relating to the deduction for multipurpose vehicles, and provides a definition for multipurpose vehicles. The amendment also clarifies that the rule applies only to multipurpose vehicles that are for the model year 1992 or for earlier model years. The amendment also states that, in the case of multipurpose vehicles for model year 1993 and for model years after 1993, the registration fees for these vehicles are determined on the same basis as for automobiles so that the fees are computed on the values and weights of the multipurpose vehicles.

Item 6 amends the implementation clause for rule 701—41.5(422).

Item 7 amends subrule 42.2(8), which provides information on various prior amendments of the tuition and textbook credit, and refers to new rule 42.22(422) which describes the amendment of the tuition and textbook credit that was applicable for tax years beginning on or after January 1, 1998.

## REVENUE DEPARTMENT[701](cont'd)

Item 8 amends paragraph "b" of subrule 42.4(3) to clarify that it is the taxpayer's gross income that is taxed by the other state or foreign country, and that it is the income tax paid to the other state or foreign country that is used to determine the amount of the out-of-state tax credit for resident taxpayers. This amendment also states that the out-of-state credit allowed on the taxpayer's return cannot exceed the income tax paid to the other state or foreign country.

Item 9 amends subrule 42.4(3) by adding new paragraph "c" to clarify how the out-of-state credit is computed, and includes an example illustrating how the credit is computed for a full-year resident. In addition, the new paragraph includes an example of how the out-of-state tax credit is computed for an individual who is a part-year resident of Iowa.

Item 10 adds new rule 701—42.22(422) that describes the tuition and textbook credit for tax years beginning on or after January 1, 1998. This rule includes all the conditions and qualifications that must be met before a taxpayer may claim the tuition and textbook tax credit. The rule contains a number of definitions relating to the deduction. The rule also lists all the expenditures related to extracurricular activities that will qualify for the tuition and textbook credit, as well as those expenditures related to extracurricular activities that are not eligible for the credit.

Item 11 rescinds and adopts new subrule 43.3(1) that describes how claims for refund are to be filed with the Department, including the forms on which the claims are to be filed.

Item 12 adds new subrule 43.3(15) that explains how the statute of limitations for refund is extended for a taxpayer who has paid 90 percent of the tax by the due date and files the original Iowa return in the six-month extended period after the due date. Two examples are included in this item to illustrate how the subrule works under different sets of facts.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities that contract with political subdivisions.

There are no waiver provisions reflected in these rules because the Department lacks the statutory authority to grant waivers where rules are mainly an interpretation of statutes.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than January 26, 2004, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who qualify as a small business, or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before January 13, 2004. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by January 16, 2004.

These amendments are intended to implement Iowa Code sections 422.4, 422.8, 422.12, 422.21, 422.25 and 422.73.

The following amendments are proposed.

ITEM 1. Amend rule 701—38.10(422), introductory paragraph, as follows:

**701—38.10(422) Indexation.** Acts of the Sixty-ninth General Assembly, 1981 Regular Session, chapter 132, and Iowa Code section 422.5, provide for the adjustment of the tax brackets and civil service annuity exclusion by a cumulative inflation factor to be determined by the director. *The requirement that provided that the state general fund balance on June 30 of the prior calendar year had to be \$60 million or more before there was indexation of the tax rate brackets for the current year was repealed for tax years beginning on or after January 1, 1996.*

ITEM 2. Rescind subrules **38.10(1)** to **38.10(17)**.

ITEM 3. Amend rule **701—40.17(422)**, first unnumbered paragraph, as follows:

A taxpayer moving into Iowa may adjust ~~their~~ *the Iowa-source* gross income on *Schedule IA 126* by the amount of the moving expense to the extent allowed by *Section 217* of the Internal Revenue Code. Any reimbursement of moving expense shall be included in *Iowa-source* gross income. A taxpayer moving from Iowa to another state or country may not adjust ~~their~~ *the Iowa-source* gross income by the amount of moving expense, nor should any reimbursement of moving expense be allocated to Iowa.

ITEM 4. Amend subrule **40.38(7)**, Example 6, as follows:

**EXAMPLE 6.** Todd Myers had a farming business which he had owned and which he had materially participated in for 20 years. There were two tracts of farmland in the farming business. In 1998, he sold one tract of farmland in the farming business that he had owned for more than 10 years for a \$50,000 capital gain. The farmland was sold to a person who was not a lineal descendant. During the same year, Mr. Myers had \$30,000 in long-term capital losses from sales of stock. In this situation, on Mr. Myers's *Myers'* 1998 Iowa return, the capital gains would *not* be applied against the capital losses ~~and the remaining \$20,000 in capital gains could be excluded.~~ *Because the capital losses are unrelated to the farming business, Mr. Myers does not have to reduce the Iowa capital gain deduction by the capital losses from the sales of stock.*

ITEM 5. Amend subrule 41.5(7) as follows:

**41.5(7)** Deduction of multipurpose vehicle registration fee. For tax years beginning on or after January 1, 1992, individuals who itemize deductions for Iowa income tax purposes may claim a deduction for 60 percent of the amount of the registration fee paid for a multipurpose vehicle under Iowa Code section 321.124, subsection 3, paragraph "h." *"Multipurpose vehicle" means a motor vehicle designed to carry not more than ten people, and constructed either on a truck chassis or with special features for occasional off-road operation. The registration certificate for a multipurpose vehicle has the letters "MV" printed next to the word "style" on the certificate.*

*This subrule applies only to model year 1992 and older model year multipurpose vehicles. The registration fees for multipurpose vehicles for the 1993 model year and for model years after 1993 are the same as for other motor vehicles where the fees for newer model year vehicles are based on the value and weight of the vehicle. In order to qualify for this deduction, no part of the multipurpose vehicle registration*

## REVENUE DEPARTMENT[701](cont'd)

fee may have been deducted as an itemized deduction under Section 164 of the Internal Revenue Code or as an ordinary and necessary business expense.

See also subrule 41.5(9), which provides for the deduction for registration fees for older motor vehicles. Subrule 41.5(7) also applies to multipurpose vehicles to the extent those vehicles are for the 1993 model year or for model years after 1993.

ITEM 6. Amend the implementation clause for rule **701—41.5(422)** as follows:

This rule is intended to implement Iowa Code sections 321.109, 321.113, and 321.124 and section 422.9 as amended by 2003 Iowa Acts, House File 674.

ITEM 7. Amend subrule 42.2(8) to read as follows:

**42.2(8)** Tuition and textbooks credit for dependents in grades kindergarten through 12 in Iowa. For tax years beginning on or after January 1, 1987, but prior to January 1, 1996, individuals who elect the optional standard deduction may claim a tax credit of 5 percent of the qualifying expenditures. For tax years beginning on or after January 1, 1996, all taxpayers, including individuals that have net incomes of \$45,000 or more, may claim a tuition and textbook credit of 10 percent of qualifying expenditures. ~~For tax years beginning on or after January 1, 1998, all taxpayers may claim a tuition and textbook credit of 25 percent of up to \$1,000 of qualifying expenditures for each dependent attending grades kindergarten through 12 in Iowa. Qualifying expenditures include amounts paid for tuition and textbooks described in paragraphs “a” and “b” of 701—subrule 41.5(5) as well as amounts paid for extracurricular activities described in paragraph “c” of 701—subrule 41.5(5). See rule 42.22(422), which provides detailed information on the tuition and textbook credit for tax years beginning on or after January 1, 1998.~~ For purposes of this subrule, the qualifying expenditures for tax years beginning in 1996 and 1997 are the same as would have been eligible for the deduction allowed under 701—subrule 41.5(5) if the qualifying expenditures had been paid in a tax year when the deduction was applicable. All the qualifications, definitions, and criteria in 701—subrule 41.5(5) are equally applicable to the credit for amounts paid for tuition and textbooks for dependents attending grades kindergarten through 12 in Iowa. In the case of married taxpayers who are filing separate returns or separately on the combined return, the spouses can allocate the credit for tuition and textbooks between them in the same ratio as described in paragraph “g” of 701—subrule 41.5(5).

ITEM 8. Amend subrule **42.4(3)**, paragraph “b,” as follows:

b. For tax years beginning on or after January 1, 1983. The limitation on the tax credit must be computed according to the following formula: ~~Income~~ *Gross income* taxed by another state or foreign country that is also taxed by Iowa shall be divided by the total gross income of the Iowa resident taxpayer. Said quotient multiplied times the net Iowa tax as determined on the total gross income of the taxpayer as if entirely earned in Iowa shall be the maximum tax credit against the Iowa net tax. *This quotient should be computed as a percentage with a minimum of one decimal place. However, if the income tax paid to the other state or foreign country on the gross income taxed by the other state or foreign country is less than the maximum tax credit against the Iowa tax, the out-of-state credit allowed against the Iowa tax may not exceed the income tax paid to the other state or foreign country. The income tax paid to the other state or foreign country is the net state or foreign income tax actually paid for*

*the tax year on the income taxed by the other state or foreign country and not the state or foreign income tax paid during the tax year, such as state income tax or foreign income tax withheld from the income taxed by the other state or foreign country.*

ITEM 9. Amend subrule **42.4(3)** by adopting new paragraph “c” as follows:

c. Out-of-state tax credit examples. An individual who is an Iowa resident for the entire tax year can claim an out-of-state tax credit against the person’s Iowa income tax liability for any income tax paid to another state or foreign country for the tax year on any gross income received by the individual for the year which was derived from sources outside of Iowa to the extent this gross income is also subject to Iowa income tax.

However, in the case of an individual who is a part-year resident of Iowa for the tax year, that individual can only claim an out-of-state tax credit against the person’s Iowa income tax liability for income tax paid to another state or foreign country on gross income derived from sources outside of Iowa during the period of the tax year that the individual was an Iowa resident and only to the extent this gross income derived from sources outside of Iowa was also subject to Iowa income tax.

The taxpayer’s out-of-state credit is computed on Schedule IA 130 which is to be filed with the taxpayer’s Iowa individual income tax return. The taxpayer’s income tax return or other document of the other state or foreign country supporting the income tax paid to the other state or foreign country shall be filed with the individual’s Iowa income tax return to support the out-of-state tax credit claimed.

EXAMPLE 1. Gene Miller was an Iowa resident for the entire year 2002. Mr. Miller lived in Council Bluffs and worked the entire year for a company in Omaha, Nebraska. Mr. Miller had wages of \$30,000 and Nebraska income tax withheld of \$1,000. He also had income of \$10,000 from rental of an Iowa farm and another \$10,000 in interest income from a personal savings account in an Iowa bank. The amount of gross income of Mr. Miller that was taxed by Nebraska (the other state or foreign country) was \$30,000. His total gross income in 2002 was \$50,000. Thus, 60 percent of his income was earned in Nebraska. Mr. Miller’s Iowa tax on line 55 of Form IA 1040 was \$917, which resulted in a potential out-of-state credit of 60 percent of the Iowa tax or \$550 because 60 percent of Mr. Miller’s income was earned outside Iowa and was taxed by Nebraska. However, Mr. Miller’s income tax liability on the Nebraska income tax return was only \$500. Thus, the out-of-state tax credit allowed was \$500, because that was less than the potential out-of-state tax credit of \$550.

EXAMPLE 2. Ben Smith was a part-year Iowa resident in 2002. He resided in Missouri for the first six months of the year until he moved to Keokuk, Iowa, on July 1. Mr. Smith was employed in Missouri for the entire year and had wages of \$30,000 and had Missouri income tax liability of \$1,000. Half of Mr. Smith’s wages or \$15,000 of the wages was earned during the time Mr. Smith was an Iowa resident. Mr. Smith also had \$10,000 in farm rental income from farmland located in Iowa. The amount of gross income taxed by Missouri while Mr. Smith was an Iowa resident was \$15,000. Mr. Smith’s gross income earned while an Iowa resident for the year was \$25,000. Thus, 60 percent of the gross income was earned in the other state while Mr. Smith was an Iowa resident. Mr. Smith’s Iowa income tax on line 55 of the IA 1040 was \$1,292. This resulted in a potential out-of-state credit of \$775 because 60 percent of the gross income was

## REVENUE DEPARTMENT[701](cont'd)

earned in Missouri during the period Mr. Smith was an Iowa resident. However, since 50 percent of the income earned in Missouri was earned while Mr. Smith was a resident of Iowa and the Missouri income tax liability for the year was \$1,000, the out-of-state credit was \$500 or 50 percent of the Missouri income tax liability. The out-of-state credit allowed was \$500, because this was less than the Iowa income tax of \$775 that was applicable to the gross income earned in Missouri during the period Mr. Smith was an Iowa resident.

ITEM 10. Amend 701—Chapter 42 by adopting the following new rule:

**701—42.22(422) Tuition and textbook credit for expenses incurred for dependents attending grades kindergarten through 12 in Iowa.** Effective for tax years beginning on or after January 1, 1998, taxpayers who pay tuition and textbook expenses of dependents who attend grades kindergarten through 12 in an Iowa school may receive a tax credit of 25 percent of up to \$1000 of qualifying expenses for each dependent attending an elementary or secondary school located in Iowa. In order for the taxpayer to qualify for the tax credit for tuition and textbooks, the elementary school or secondary school that the dependent is attending must meet the standards for accreditation of public and nonpublic schools in Iowa provided in Iowa Code section 256.11. In addition, the school the dependent is attending must not be operated for profit and must adhere to the provisions of the United States Civil Rights Act of 1964, and the provisions of Iowa Code chapter 216, which is known as the Iowa civil rights Act of 1965. The following definitions and criteria apply to the determination of the tax credit for amounts paid by the taxpayer for tuition and textbooks for a dependent attending an elementary or secondary school in Iowa:

**42.22(1) Tuition.** For purposes of the tuition and textbook tax credit, “tuition” means any charge made by an elementary or secondary school for the expense of personnel, buildings, equipment and materials other than textbooks, and other expenses of elementary or secondary schools which relate to the teaching of only those subjects that are legally and commonly taught in public elementary or secondary schools in Iowa. “Tuition” includes charges by a qualified school for summer school classes or for private instruction of a child who is physically unable to attend classes at the site of the elementary or secondary school.

“Tuition” does not include charges or fees which relate to the teaching of religious tenets, doctrines, or worship in cases where the purpose of the teaching is to inculcate the religious tenets, doctrines, or worship. In addition, “tuition” does not include amounts paid to an individual or other entity for private instruction of a dependent who attends an elementary or secondary school in Iowa. Amounts paid to a school for meals, lodging, or clothing for a dependent do not qualify for the tax credit for “tuition.”

Amounts paid to an individual or organization for “home schooling” of a dependent or the teaching of a dependent outside of an elementary or secondary school may not be claimed for purposes of the tuition and textbook tax credit.

**42.22(2) Textbooks.** For purposes of the tuition and textbook tax credit, “textbooks” means books and other instructional materials used in elementary and secondary schools in Iowa to teach only those subjects legally and commonly taught in public elementary and secondary schools in Iowa. “Textbooks” includes fees or charges by the elementary or secondary school for required supplies or materials for classes in art, home economics, shop or similar courses. “Textbooks” includes books and materials used for extracur-

ricular activities, such as sporting events, musical events, dramatic events, speech activities, driver’s education, or programs of a similar nature.

“Textbooks” does not include amounts paid for books or other instructional materials used in the teaching of religious tenets, doctrines, or worship, in cases where the purpose of the teaching is to inculcate the religious tenets, doctrine, or worship. “Textbooks” also does not include amounts paid for books or other instructional materials used in teaching a dependent subjects in the home or outside of an elementary or secondary school.

**42.22(3) Extracurricular activities.** For purposes of the tuition and textbook tax credit, amounts paid for dependents to participate in or to attend extracurricular activities may be claimed as part of the tuition and textbook tax credit. “Extracurricular activities” includes sporting events, musical events, dramatic events, speech activities, and driver’s education if provided at a school, and programs of a similar nature.

a. The following are specific examples of expenditures related to a dependent’s participation in or attendance at extracurricular activities that may qualify for the tuition and textbook tax credit:

- (1) Fees for participation in school sport activities.
- (2) Fees for field trips.
- (3) Rental fees for instruments for school bands or orchestras but not rental fees in rent-to-own contracts.
- (4) Driver’s education fees, if paid to a school.
- (5) Cost of activity tickets or admission tickets to school sports, music and dramatic events.
- (6) Fees for events such as homecoming, winter formal, prom, or similar events.
- (7) Rental of costumes for school plays.
- (8) Purchase of costumes for school plays if the costumes are not suitable for street wear.
- (9) Purchase of track shoes, football shoes, or other athletic shoes with cleats, spikes, or other features that are not suitable for street wear.
- (10) Costs of tickets or other admission fees to attend banquets or buffets for school academic or athletic awards.
- (11) Trumpet grease, woodwind reeds, guitar picks, violin strings and similar types of items for maintenance of instruments used in school bands or orchestras.
- (12) Band booster club or athletic booster club dues, but only if dues are for the dependent attending the school and not the parent or adult.
- (13) Rental of formal gown or tuxedo for school dance or other school event.
- (14) Dues paid to school clubs or school-sponsored organizations such as chess club, photography club, debate club, or similar organizations.
- (15) Amounts paid for music that will be used in school music programs, including vocal music programs.
- (16) Fees paid for general materials for shop class, agriculture class, home economics class, or auto repair class and general fees for equivalent classes.
- (17) Fees for a dependent’s bus trips to attend school if paid to the school.

b. The following are specific examples of expenditures related to a dependent’s participation in or attendance at extracurricular activities that will not qualify for the tuition and textbook credit.

- (1) Purchase of a musical instrument used in a school band or orchestra.
- (2) Purchase of basketball shoes or other athletic shoes that are readily adaptable to street wear.

## REVENUE DEPARTMENT[701](cont'd)

(3) Amounts paid for special testing such as SAT or PSAT, and for Iowa talent search tests.

(4) Payments for senior trips, band trips, and other overnight school activity trips which involve payment for meals and lodging.

(5) Fees paid to K-12 schools for courses for college credit.

(6) Amounts paid for T-shirts, sweatshirts and similar clothing that is appropriate for street wear.

(7) Amounts paid for special programs at universities and colleges for high school boys or girls.

(8) Payment for private instrumental lessons, voice lessons or similar lessons.

(9) Amounts paid for a school yearbook, annual or class ring.

(10) Fees for special materials paid for shop class, agricultural class, auto repair class, home economics class and similar classes. For purposes of this paragraph, "special materials" means materials used for personal projects of the dependents, such as materials to make furniture for personal use, automobile parts for family automobiles and other materials for projects for personal or family benefit.

This rule is intended to implement Iowa Code section 422.12.

ITEM 11. Rescind subrule 43.3(1) and adopt the following **new** subrule in lieu thereof:

**43.3(1)** Claims for refund. A claim for refund is a formal request made by the taxpayer or the taxpayer's personal representative to the department of revenue for repayment of state income tax that was paid with the taxpayer's previously filed individual income tax return. In order for a claim for refund to be considered to be a valid document, the taxpayer or the taxpayer's personal representative must file the claim on an IA 1040X Amended Return Form, on an IA 843 Claim for Refund Form or on an IA 1040 Income Tax Return Form for the appropriate tax year, with the notation "Amended for Refund" clearly shown on the face of the return form. The taxpayer or the taxpayer's personal representative must file the claim for refund with the department under separate cover so the claim is not filed with another tax return or with other documents or forms submitted to the department.

In addition, the claim for refund must be filed within one of the time periods specified in Iowa Code section 422.73(2) in order for the refund claim to be timely so that the claim may be considered on its merits by the department.

If the department determines that the taxpayer's claim is without merit and the claim for refund should be rejected, the department will notify the taxpayer or the taxpayer's personal representative by mail that the claim for refund has been rejected and of the reason for rejection. In addition, the rejection letter will advise the taxpayer that the taxpayer has 60 days from the date of the letter to file a protest of the department's rejection of the claim for refund. The taxpayer's appeal of the rejection of the claim for refund must be filed in accordance with rule 701—7.41(17A).

ITEM 12. Amend rule 701—43.3(422) by adding the following **new** subrule:

**43.3(15)** Refunds—statute of limitations for taxpayers who paid 90 percent of the tax by the due date and filed the original return in the six-month extended period. If a taxpayer has paid 90 percent of the income tax required to be shown due by the original due date of the return and has filed the original income tax return sometime in the six-month extended period after the original due date, the taxpayer can file an amended return by October 31 of the third year following

the year the original return was due and shall be within the statute of limitations for refund. This position is supported by the Iowa Supreme Court in *Conoco, Inc. v. Iowa Department of Revenue and Finance*, 477 N.W.2d 377 (Iowa 1991). See also 701—subrule 39.2(4) which pertains to the extended period for filing the Iowa income tax return when 90 percent of the tax is paid by the original due date of the Iowa income tax return.

EXAMPLE 1. Joe Barnes had paid at least 90 percent of the tax shown due on his 1999 Iowa income tax return by the April 30 original due date and filed his original 1999 Iowa return on May 15, 2000. Mr. Barnes determined that he had failed to claim several deductions on the original 1999 Iowa return, so he filed an amended 1999 return on October 31, 2003. The amended return was filed within the three-year statute of limitations for refund since it was filed within three years of the extended due date of the return, October 31, 2000. The six-month extended due date applied in this case because the original return was filed within the six-month extended period.

EXAMPLE 2. Fred Jones paid 90 percent of the tax shown due on his 1999 return by the April 30 original due date and filed the original return on or before the April 30, 2000, original due date for this return. Mr. Jones determined that when he filed the original 1999 Iowa return, he failed to claim the Iowa income tax withheld from a part-time job he held in 1999. Mr. Jones filed an amended 1999 Iowa return on May 15, 2003, to claim the Iowa tax withheld that he had failed to claim on the original return. This amended return was rejected by the department because it was not filed within three years of the due date of the return. Although Mr. Jones had paid 90 percent of the tax by the due date, the due date was not extended because the original return had been filed by the due date of April 30, 2000.

## NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for December is 6.25%.

### INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants . . . . .	Maximum 6.0%
74A.4 Special Assessments . . . . .	Maximum 9.0%

**RECOMMENDED** Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a com-

## NOTICE—PUBLIC FUNDS INTEREST RATES(cont'd)

mitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective December 11, 2003, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

## TIME DEPOSITS

7-31 days . . . . .	Minimum 0.80%
32-89 days . . . . .	Minimum 0.80%
90-179 days . . . . .	Minimum 0.80%
180-364 days . . . . .	Minimum 1.00%
One year to 397 days . . . . .	Minimum 1.20%
More than 397 days . . . . .	Minimum 1.80%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

## NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

January 1, 2003 — January 31, 2003	6.00%
February 1, 2003 — February 28, 2003	6.00%
March 1, 2003 — March 31, 2003	6.00%
April 1, 2003 — April 30, 2003	6.00%
May 1, 2003 — May 31, 2003	5.75%
June 1, 2003 — June 30, 2003	6.00%
July 1, 2003 — July 31, 2003	5.50%
August 1, 2003 — August 31, 2003	5.25%
September 1, 2003 — September 30, 2003	6.00%
October 1, 2003 — October 31, 2003	6.50%
November 1, 2003 — November 30, 2003	6.25%
December 1, 2003 — December 31, 2003	6.25%
January 1, 2004 — January 31, 2004	6.25%

## ARC 3064B

## UTILITIES DIVISION[199]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code sections 17A.4, 476A.1, 476A.2, and 476A.15, the Utilities Board (Board) gives notice that on

November 24, 2003, the Board issued an order in Docket No. RMU-03-16, In re: Notice of Generation Siting Waiver Requests, “Order Commencing Rule Making.” The Board is proposing an amendment to 199 IAC 24.15(476A) to provide that notice be given to adjoining landowners of record of waiver requests involving the electric generation siting statutes, Iowa Code chapter 476A.

The proposed amendment is in response to a recent waiver proceeding before the Board. The applicant requested a waiver of the siting statutes with respect to a 90 MW peaking facility in Audubon County. Two families that owned land adjoining the proposed facility contested the waiver request. Those two families were not served by the applicant with notice of the waiver, but became aware of the request through their own investigation. The proceeding highlighted the necessity of providing adjoining landowners with notice of such waiver requests. (Western Minnesota Municipal Power Agency, “Proposed Decision and Order” and “Order Affirming Proposed Decision and Order,” Docket No. WRU-03-19 (8/20/03, 9/17/03)) Under the current rule, generally only the Consumer Advocate Division of the Department of Justice is required to be served with notice.

Pursuant to Iowa Code sections 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendment. The statement must be filed on or before January 13, 2004, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author’s name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to receive comments on the proposed amendment will be held at 10 a.m. on January 27, 2004, in the Board’s hearing room at the address listed above. The Board does not find it necessary to propose a separate waiver provision in this rule making. The Board’s general waiver provision in 199 IAC 1.3(17A,474,476,78GA,HF2206) is applicable to this rule.

This amendment is intended to implement Iowa Code section 476A.15.

The following amendment is proposed.

Amend rule 199—24.15(476A) as follows:

**199—24.15(476A) Waiver.** The board, if it determines that the public interest would not be adversely affected, may waive any of the requirements of this chapter. In determining whether the public interest would not be adversely affected, the board will consider the following factors:

1. The purpose of the facility.
2. The type of the facility.
3. If the facility is for the applicant’s own needs.
4. The effect of the facility on existing transmission systems.
5. Any other relevant factors.

*In addition to other service requirements, the applicant must serve a copy of the waiver request on all owners of record of real property that adjoins the proposed facility site.*



**ARC 3037B****VOTER REGISTRATION  
COMMISSION[821]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 47.8 and Title III, Section 303 of the Help America Vote Act of 2002, Public Law 107-252, 42 U.S.C. 15483, the Voter Registration Commission hereby gives Notice of Intended Action to amend Chapter 2, “Voter Registration Applications, Acceptability, Registration Dates, and Effective Dates,” and Chapter 3, “Lists of Registered Voters,” Iowa Administrative Code.

Item 1 is intended to implement Iowa Code section 48A.11. The amendment adds to mail-in voter registration applications new elements that are required by Title III, Section 303 of the Help America Vote Act of 2002, Public Law 107-252, 42 U.S.C. 15483. The new elements are the Iowa driver’s license number (if the applicant has an Iowa driver’s license), nonoperator’s identification card number, or the last four digits of the applicant’s social security number; citizenship and age questions; and a notice that applicants who register by mail must provide identification documents unless their driver’s license number, nonoperator’s identification card number, or the last four digits of the social security number can be verified. These requirements are part of the Help America Vote Act.

Item 2 provides procedures to be followed if applicants submit incomplete application forms. Item 3 requires the removal of driver’s license and nonoperator identification card numbers from lists of registered voters; social security numbers currently are required to be removed pursuant to Iowa Code section 48A.38(1)“f.”

Any interested person may make written suggestions or comments on these proposed amendments on or before January 13, 2004. Such written suggestions or comments should be directed to Sandra J. Steinbach, Director of Elections, Office of the Secretary of State, 321 East 12th Street, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State’s Office at (515)281-5823 or at the office of the Secretary of State, 321 East 12th Street, Lucas State Office Building, First Floor, Des Moines, Iowa 50319. Requests for a public hearing must be received by 4:30 p.m. on January 12, 2004.

These amendments are intended to implement Iowa Code section 48A.11.

The following amendments are proposed.

ITEM 1. Amend rule 821—2.1(48A) to read as follows:

**821—2.1(48A) Required elements.**

**2.1(1)** In addition to the spaces required by Iowa Code section 48A.11, every voter registration form shall include room for the county commissioner to make notations indicating such items as the date the form was received, the precinct and school district of the registrant, any other special district or note deemed necessary or appropriate by the commission-

er, and the date the registration is effective. The notations may be on the reverse of the form.

**2.1(2)** *Voter registration forms that may be used to register by mail shall also include the following elements required by Title III, Section 303 of the Help America Vote Act of 2002, Public Law 107-252, 42 U.S.C. 15483.*

*a. The applicant’s Iowa driver’s license number (if the applicant has a driver’s license) or, if the applicant does not have a driver’s license, an Iowa department of transportation-issued nonoperator’s identification card number, or the last four digits of the applicant’s social security number.*

*b. The question “Are you a citizen of the United States of America?” and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.*

*c. The question “Will you be 18 years of age on or before election day?” and boxes for the applicant to check to indicate whether the applicant will be 18 years of age or older on election day.*

*d. The statement, “If you checked ‘no’ in response to either question, do not complete this form.”*

*e. The following statement: “If you submit this form by mail and you are registering to vote for the first time in this county, enclose a copy of one of the following documents:*

*“(1) Current and valid photo identification card showing your name.*

*“(2) Current utility bill, bank statement, government check, paycheck or other government document showing your name and address.*

*You do not need to send any of the documents listed above if you include your Iowa driver’s license number, Iowa department of transportation-issued nonoperator’s identification card number, or the last four digits of your social security number, and this information can be verified.”*

ITEM 2. Amend rule 821—2.8(48A) to read as follows:

**821—2.8(48A) Incomplete applications acceptable.**

**2.8(1)** No commissioner shall refuse to register or accept an application from an applicant unable to specify the correct ward, precinct, or school district for the applicant’s address. The commissioner shall make a determination of the correct political subdivisions from maps, legal descriptions, and other means at the commissioner’s disposal.

**2.8(2)** *A voter registration application that lacks either the applicant’s Iowa driver’s license number, Iowa department of transportation-issued nonoperator’s identification card number, or the last four digits of the applicant’s social security number shall be entered as a pending registration until the next federal election. Within seven days after receipt of the application, the commissioner shall contact the applicant by mail and request the missing required information. The applicant may provide the required information in writing until the date registration closes for the next federal election by appearing in person at the commissioner’s office to complete a new application, by mailing a new and complete application, or by sending a letter to the commissioner. If the applicant reports that the applicant has not been issued either an Iowa driver’s license, Iowa department of transportation-issued nonoperator’s identification card number, or a social security number, the commissioner shall assign a unique identifying number that shall serve to identify the registrant for voter registration purposes and enter the registration as active.*

**2.8(3)** *A person who submits an application by mail and does not mark either “yes” or “no” to the question, “Are you*



## VOTER REGISTRATION COMMISSION[821](cont'd)

*a citizen of the United States of America?" shall not be registered to vote in federal elections until the application form is completed. The registration shall be coded to be valid only for elections for which no candidate for federal office appears on the ballot. Within seven days after receipt of the application, the commissioner shall contact the applicant by mail and request the missing required information. The applicant may provide the required information in writing until the date registration closes for the next federal election by appearing in person at the commissioner's office to complete a new application, by mailing a new and complete application, or by sending a letter to the commissioner confirming that the applicant is a U.S. citizen.*

ITEM 3. Amend 821—Chapter 3 by adding the following **new** rule:

**821—3.10(48A) Driver's license numbers.** The county commissioner of registration and the state registrar of voters shall remove a voter's driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or whole or partial social security number from a voter registration list prepared pursuant to Iowa Code section 48A.38.

**ARC 3063B****ADMINISTRATIVE SERVICES  
DEPARTMENT[11]****Adopted and Filed Emergency**

Pursuant to the authority of 2003 Iowa Acts, chapter 145, section 4, the Department of Administrative Services hereby adopts new Chapter 40, "Offset of Debts Owed State Agencies," Iowa Administrative Code.

The purpose of this rule making is to adopt rules on offset of payments owed to persons and entities with liabilities owed to state agencies, which were formerly under the authority of and adopted by the Department of Revenue and Finance. The responsibility for offsets has been transferred to the Department of Administrative Services by the 80th General Assembly in 2003 Iowa Acts, chapter 145, section 86.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary, impractical and contrary to public interest because the chapter incorporates rules being rescinded by the Department of Revenue into the rules of the Department of Administrative Services as required by the statutory change in authority.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the rules should be waived and these rules should be made effective on December 17, 2003, to coincide with the effective date of the Department of Revenue's rescission of these rules from 701—Chapter 150, as it confers a benefit to the finances of the state and continues a functional program without interruption.

These rules are also published herein under Notice of Intended Action as **ARC 3066B** to allow for public comment.

The Department adopted these rules on December 4, 2003.

These rules became effective December 17, 2003.

These rules are intended to implement 2003 Iowa Acts, chapter 145, section 86.

The following new chapter is adopted.

**CHAPTER 40****OFFSET OF DEBTS OWED STATE AGENCIES**

**11—40.1(80GA,ch145) Definitions.** For the purposes of this chapter, the following definitions shall govern:

"Collection entity" means the department of administrative services and any other state agency that maintains a separate accounting system and elects to establish a debt collection setoff procedure for collection of debts owed to the state or its agencies.

"Debtor" means any person owing a debt to the state of Iowa or any state agency.

"Department" means the Iowa department of administrative services.

"Director" means the director of the Iowa department of administrative services or the director's designee.

"Liability" or "debt" means any liquidated sum due and owing to the state of Iowa or any state agency which has accrued through contract, subrogation, tort, operation of law, or any legal theory regardless of whether there is an outstanding judgment for that sum. Before setoff, the amount of a person's liability to a state agency shall be at least \$50.

"Offset" means to set off or compensate a state agency which has a legal claim against a person or entity where there

exists a person's valid claim on a state agency that is in the form of a liquidated sum due, owing and payable. Before set-off, the amount of a person's claim on a state agency shall be at least \$50.

"Person" or "entity" means an individual, corporation, business trust, estate, trust, partnership or association, or any other legal entity, but does not include a state agency.

"State agency" or "agency" means a unit of state government, which is an authority, board, commission, committee, council, department, examining board, or independent agency as defined in Iowa Code section 7E.4, including but not limited to each principal central department enumerated in Iowa Code section 7E.5 as amended by 2003 Iowa Acts, chapter 145, sections 116 to 119. However, "state agency" or "agency" does not mean any of the following:

1. The office of the governor or the office of an elective constitutional or statutory officer.

2. The general assembly, or any office or unit under its administrative authority.

3. The judicial branch, as provided in Iowa Code section 602.1102.

4. A political subdivision of the state or its offices or units, including but not limited to a county, city, or community college.

**11—40.2(80GA,ch145) Scope and purpose.**

**40.2(1)** The purpose of these rules is to establish a procedure by which state agencies can cooperate in identifying debtors who owe liabilities to those state agencies and to establish a procedure for offsetting debtors' claims against state agencies with liabilities or debts which those debtors owe the state agencies.

**40.2(2)** Agencies may collect debts under the provisions of 2003 Iowa Acts, chapter 145, section 86, through the daily processing offset system. Agencies utilizing the income tax refund offset system under the provisions of 2003 Iowa Acts, chapter 145, section 86, which allows for the recovery of child support, foster care, and public assistance payments; the recovery of guaranteed student or parental loans; or the recovery of any liquidated sum due, owing, and payable to the clerk of the district court may also utilize this offset system to collect debts due. Any state agency exempt from the provisions of 2003 Iowa Acts, chapter 145, section 95, and that is making payments, shall be subject to these rules.

**40.2(3)** Inclusions in and exclusions from setoff. The offset system may be used to collect any debt described in rule 40.1(80GA,ch145). However, some claims against the state or state agencies on behalf of certain persons are made from funds exempt from collection and are thus unavailable for offset. A consolidated listing of payment sources unavailable for offset is available from the department's state accounting enterprise.

**11—40.3(80GA,ch145) Participation guidelines.** Those state agencies qualified under rule 40.2(80GA,ch145) to use this chapter's offset provisions should utilize these provisions when it is cost-effective to do so. Final determination regarding whether or not it will be cost-effective to offset any debt owed will be at the discretion of the director. Generally, it will not be cost-effective to offset a debt if the total anticipated collection cost will exceed the amount of the claim that could reasonably be expected to be realized as a result of the collection costs. The cost-effectiveness criteria that the director applies will not be the same for every agency. Circumstances differ among agencies. The following nonexclusive examples are intended to provide guidance in determining cost-

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

effectiveness. These examples represent instances in which it might not be cost-effective to offset debts.

EXAMPLE A: A debtor has ceased operations for an extended period of time.

EXAMPLE B: A business has changed its form (e.g., from a sole proprietorship to a partnership or corporation).

EXAMPLE C: A debt has been placed with a private collection firm and it appears likely that the firm will collect the debt.

EXAMPLE D: The age or health of a debtor is such that it is unlikely that the debtor will be receiving any payments from the state or a state agency.

EXAMPLE E: The debtor is a foreign student who has left the country.

EXAMPLE F: The debtor is a person in bankruptcy.

EXAMPLE G: By statute or federal regulations certain agencies cannot write off debts. If the debt of one of these agencies has been owed for a substantial amount of time, it may be reasonable to assume that referral would not be cost-effective (e.g., the debtor has changed its name or address or for some other reason would be impossible to locate).

**11—40.4(80GA,ch145) Duties of the agency.** An agency seeking offset shall have the following duties regarding the department and debtors.

**40.4(1)** Notification to the department. An agency must provide a list of debtors to the department of administrative services. This list must be in a format and type prescribed by the department and include only information relevant to the identification of the person owing.

The director shall not process a claim under the provisions of 2003 Iowa Acts, chapter 145, section 86, until notification is received from the state agency that the debt has been established through notice and opportunity to be heard. The agency shall provide along with each liability file a written statement to the director declaring that the debt has occurred.

**40.4(2)** Change in status of debt. A state agency that has provided a liability file to the department of administrative services must notify the department immediately of any change in the status of a debt to the state. This notification shall be made no later than 30 calendar days from the occurrence of the change. A change in status may come from payment of the debt, invalidation of the liability, alternate payment arrangements with the debtor, bankruptcy, or other factors.

**40.4(3)** Semiannual certification of file. Each agency that maintains a liability file shall be required to certify the file to the department semiannually. This certification shall be made in a manner prescribed by the director. Debtors not certified in the manner prescribed will be removed from the liability file.

**40.4(4)** Notification to debtor. An agency shall send notification to the debtor within ten calendar days from the date the agency was notified by the department of a potential offset. This notification shall include:

- a. The agency's right to the payment in question.
- b. The agency's right to recover the payment through the offset procedure.
- c. The basis of the agency's case in regard to the debt.
- d. The right of the debtor to request the split of the payment between parties when the payment in question is jointly owned or otherwise owned by two or more persons.
- e. The debtor's right to appeal the offset and the procedure to follow in that appeal.
- f. The name of the agency or division and a telephone number for the person owing to contact in the case of questions.

The department may require that a copy of this notice be sent to the department. Once the offset has been completed, the agency shall notify the debtor of the action taken along with the balance, if any, still due to the agency. It is the responsibility of the agency to make payment to the person owing the state any payment offset by the department to which the state is not entitled, in accordance with established procedures.

**11—40.5(80GA,ch145) Duties of the department—performance of the offset.** The department will develop procedures for administering each offset program request on an individual basis. Procedures will vary in order to achieve the greatest efficiency in administering each offset.

Before issuing an authorized payment to a person or entity, the department will match the payment against a debt listing provided by the state agencies participating in the offset program. The department will notify the state agency of the person's or entity's name, address, identifying number, and amount of the entitled payment.

The department shall hold the payment which offsets the liquidated sum due and payable for a period not to exceed 45 days while awaiting notification from the agency as to the amount required to satisfy the person's or entity's debt to the state. If notification is not made to the department by the state agency within 45 days, the amount of the payment shall be released to the person or entity.

The department will make the offset only after the state agency has notified the debtor as prescribed in subrule 40.4(4). The department shall then refund any balance amount due from the state to the person or entity.

**11—40.6(80GA,ch145) Multiple claims—priority of payment.** In the case of multiple claims to payments filed under 2003 Iowa Acts, chapter 145, section 86, after satisfaction of the provisions of Iowa Code section 422.73, priority shall be given to claims filed by the child support recovery unit or the foster care recovery unit. Next priority shall be given to claims filed by the college student aid commission. Next priority shall be given to claims filed by the office of investigations. Next priority shall be given to claims filed by a clerk of the district court. Last priority shall be given to claims filed under 2003 Iowa Acts, chapter 145, section 86.

The order of priority for offset against multiple claims by more than one state agency shall be determined by the date the liability was listed with the department. Subsequent entries of claims by state agencies shall be offset in order of the date the listing was made with the department.

**11—40.7(80GA,ch145) Payments of offset amounts.** Payments to the agency requesting the offset shall be made by the department on the twenty-fifth day of each month.

**11—40.8(80GA,ch145) Reimbursement for offsetting liabilities.** Costs incurred by the department in administering the offset program will be charged to the state department requesting offset. The costs will be deducted from the gross proceeds collected through offset and may include direct expenses such as salaries, supplies, equipment, and system modification and development costs; or indirect costs such as space, security, or utility costs. If the above-described procedure is prohibited by paramount state or federal law, the director shall allow reimbursement in a manner which conforms to the paramount law.

**11—40.9(80GA,ch145) Confidentiality of information.** Information shared between state agencies shall be deemed confidential and shall be disclosed only to the extent that sufficient information is given that is relevant to the identifica-

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

tion of persons liable to or claimants of state agencies. The information is to be used for the purpose of offset only.

## JUDICIAL OFFSET PROCEDURES

**11—40.10(80GA,ch145) Incorporation by reference.** In providing judicial offset procedures, the department incorporates by reference the following rules and subrules to be applied to the substance and procedure under this heading:

1. 11—40.2(80GA,ch145) Scope and purpose.
2. 11—40.3(80GA,ch145) Participation guidelines.
3. 11—subrule 40.4(1) Duties of the agency—notification to the department.
4. 11—subrule 40.4(2) Duties of the agency—change in status of debt.
5. 11—subrule 40.4(3) Duties of the agency—semi-annual certification of file.
6. 11—40.5(80GA,ch145) Duties of the department—performance of the offset.
7. 11—40.7(80GA,ch145) Payments of offset amounts.
8. 11—40.8(80GA,ch145) Reimbursement for offsetting liabilities.
9. 11—40.9(80GA,ch145) Confidentiality of information.

**11—40.11(80GA,ch145) Definitions.** The definitions set forth in 11—40.1(80GA,ch145) are incorporated by reference and are applicable to rules 11—40.10(80GA,ch145) to 40.16(80GA,ch145) except the definitions of “liability” or “debt” and “offset” which shall be defined for the purpose of these rules as follows:

“Liability” or “debt” means any liquidated sum due and owing to any clerk of the Iowa district court which has accrued through the following means including, but not limited to, fines, judgments, court costs, or any legal theory regardless of whether there is an outstanding judgment for that sum. Before setoff, the amount of a person’s original liability to a state agency must be at least \$50, unless otherwise provided as based on the discretion of the department.

“Offset” means to set off or compensate any clerk of the Iowa district court which has a legal claim against a person or entity where there exists a person’s valid claim on a state agency that is in the form of a liquidated sum due, owing and payable. Before setoff, the amount of a person’s claim on a state agency shall be at least the minimum amount as indicated in the definition of “liability” or “debt” as set forth in this rule. If the source of a person’s claim is a tax refund or tax rebate, the minimum will be \$25.

**11—40.12(80GA,ch145) Applicability and procedure.** For liabilities accrued and owing to any and all clerks of the Iowa district court, the department shall issue a written notice informing any person having a valid claim against a state agency that an offset will be performed against the claim. The department will perform the offsets for such clerks as provided in 2003 Iowa Acts, chapter 145, section 86, and the department will send a written notice to the person liable for such a liability prior to and after the offset has been performed. Subsequently, the department will also provide administrative procedures and available remedies for contesting the validity of such an offset. The Iowa district court will provide the procedures and remedies for challenging the underlying liability at issue. This rule applies only to liabilities and debts owed to the clerks of the Iowa district court.

**11—40.13(80GA,ch145) Notice of offset.** The department shall send written notification of the offset to the person that has a valid claim against any state agency that is a liquidated

sum, due and payable and in which such a person is liable for a liability owed to any and all clerks of the Iowa district court within ten calendar days from the date the department is notified by the judicial branch of the uncollected liability. This notification must include:

1. The judicial branch’s right to the payment in question;
2. The judicial branch’s right to recover the payment through the offset procedure;
3. The basis of the judicial branch’s case in regard to the debt;
4. The right of the person who owes the liability to request, within 15 days of the mailing of the notice, that the payment between parties be split when the payment in question is jointly owned or otherwise owned by two or more persons;
5. The right of the person liable to contest the right of offset and the validity of such offset with the department by mailing, to the department’s legal counsel, a protest within 15 days of the mailing of such notice, and that the procedure to follow in that appeal will conform, according to the context, to the rules of the department involving protests and contested case proceedings in 401—Chapter 6.
6. The name of the agency or division and the telephone number for the person liable for the liability to contact concerning questions regarding the validity of the offset and the procedures for the offset;
7. That the person liable for the liability has the opportunity to contest the validity and amount of the liability by mailing, within 15 days of mailing of the notice of offset, a written application to contest the liability to the appropriate clerk of the Iowa district court; and
8. The name of the clerk of the district court and the telephone number for the person liable for the liability to contact concerning questions relating to the validity of the underlying liability and regarding the validity of the amount owed.

**11—40.14(80GA,ch145) Procedure for contesting.** A person liable for a liability under this heading may contest the validity or amount of the underlying liability by mailing written notification of the person’s intent to contest such a liability to the appropriate clerk of the Iowa district court. The Iowa district court will provide the person liable with the procedure and remedies for contesting the validity and amount of the underlying liability.

A person liable for a liability payable to the judicial branch that has been deemed qualified for offset may contest the validity of the offset or the right of the offset by mailing written notification to the Department of Administrative Services, Legal Counsel, Hoover State Office Building, Level A-South, Des Moines, Iowa 50319. The department will provide the procedure and remedies for contesting the validity of the offset and right of offset pursuant to the applicable contested case rules set forth in 401—Chapter 6.

If a person liable to the judicial department gives written notice of intent to contest either the validity or the amount of the liability or the validity of the offset or right of offset, the judicial department and the department will hold a payment in abeyance until the final disposition of the contested liability or offset.

**11—40.15(80GA,ch145) Postoffset notification and procedure.** Following the offset, the department will notify the person liable that the offset was performed. It is the responsibility of the department to make payment to the person liable to the Iowa district court clerk of any amount to which the Iowa district court clerk is not entitled to receive under the offset, in accordance with established procedures.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

**11—40.16(80GA,ch145) Report of satisfaction of obligations.** At least monthly, the department will file with the clerk of the district court a notice of satisfaction of each obligation to the full extent of all moneys collected in satisfaction of the obligation. No additional or separate written notice from the department regarding the performed offsets is required.

These rules are intended to implement Iowa Code sections 422.16, 422.20 and 422.72 as amended by 2003 Iowa Acts, chapter 145, sections 256 and 257, and 422.73 and 2003 Iowa Acts, chapter 145, section 86.

[Filed Emergency 12/5/03, effective 12/17/03]

[Published 12/24/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/24/03.

## ARC 3029B

### ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

#### Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development amends Chapter 7, "Iowa Jobs Training Program," and Chapter 20, "Accelerated Career Education (ACE) Program," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 17, 2003, as **ARC 2755B**.

These amendments update the rules to incorporate legislative changes enacted during the 2003 Session of the General Assembly. The amendments to Chapter 7 add two new components: job retention and projects funded with moneys from the Grow Iowa Values Fund. The amendments to Chapter 20 add new rules applicable to applications for projects funded with moneys from the Grow Iowa Values Fund.

A public hearing to receive comments about the proposed amendments was held on October 8, 2003. The following comments were received:

Concern was raised regarding the severity of the disallowance requirement under the retention program. Comments were received in regard to the need to enhance the skills of prospective employees that a business would hire if some remedial skills training could be provided. Additionally, it was requested that IDED implement the amendments on an emergency basis because of pending projects.

Based on these comments, the following changes were made to the Notice:

1. Subrule 7.9(2) was amended to add new lettered paragraph "j" to allow preemployment training for prospective employees as a cost eligible for program funding under Chapter 260F projects.

2. Subrule 7.28(11) was amended to allow repayment of moneys which have been provided to a company as an award under the job retention program to be prorated if the company ceases business operation or does not maintain its presence at the workplace location for ten years. Without such a revision, a company which had maintained its presence at a workplace location for 9 years, 11 months, would have to pay back the entire award. This change provides for a more equitable repayment.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments, 35 days after publication, should be waived and the amendments be made effective on November 20, 2003, upon filing. An emergency implementation is of benefit to the public because a number of projects and potential projects require immediate attention and may not occur or would be impaired should funding not be available in the short term.

The Iowa Department of Economic Development adopted these amendments on November 20, 2003.

These amendments are intended to implement Iowa Code chapters 260F and 260G as amended by 2003 Iowa Acts, First Extraordinary Session, House Files 692 and 683.

These amendments became effective on November 20, 2003.

The following amendments are adopted.

ITEM 1. Amend subrule **7.9(2)** by adding the following new lettered paragraph "**j**":

j. Preemployment training for prospective employees.

ITEM 2. Amend 261—Chapter 7 by renumbering rules **261—7.28(260F)** to **7.33(260F)** as **261—7.30(260F)** to **261—7.35(260F)** and adopting the following new rules:

**261—7.28(80GA,HF692,HF683) Special requirements for job retention program projects.**

**7.28(1) Purpose.** The purpose of the job retention program established by 2003 Iowa Acts, First Extraordinary Session, House File 683, is to provide training to employees of businesses that are major employers in the state and that are incurring a major investment in retooling at their facilities in order to be more competitive in the world marketplace.

**7.28(2) Definitions.** In addition to the definitions in rule 261—7.3(260F), the following definitions shall apply to the job retention program:

"Act" means 2003 Iowa Acts, First Extraordinary Session, House File 683, section 77, in which the job retention program is established.

"Grow Iowa values board" means the board established by 2003 Iowa Acts, First Extraordinary Session, House File 692, section 78.

"Grow Iowa values fund" means the fund established by 2003 Iowa Acts, First Extraordinary Session, House File 692, section 84.

"Participating business" means a business for which a job retention project is being undertaken.

"Workplace" means the facility where new capital investment and employment are occurring and that meets the requirements of the job retention program.

**7.28(3) Eligibility requirements.**

a. To be eligible, a business shall meet one of the following requirements:

(1) Employ at least 1000 employees at the workplace location; or

(2) Represent at least 4 percent or more of the county's resident labor force as based upon the most recent annual labor force statistics from the department of workforce development; and

b. To be eligible, a business shall meet both of the following requirements:

(1) Provide a commitment that the participating business shall invest at least \$15 million to retool the workplace and upgrade the facilities of the participating business; and

(2) Provide a commitment that the participating business shall not move the business operation out of this state or close

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

the business operation for at least ten years following the date of the agreement.

**7.28(4)** Funding assistance. Assistance under this program may be provided under a multiyear agreement with training to be conducted over multiple fiscal years.

**7.28(5)** Application. The community college and business shall submit to the department an application in a form and manner as prescribed by the department.

**7.28(6)** Type of training allowed. Training costs as allowed in Iowa Code chapter 260F and 261—Chapter 7 are allowed under the job retention program.

**7.28(7)** Match requirements. Training projects funded through the job retention program of the grow Iowa values fund shall have a match provided by the business of at least 25 percent of the project's training costs. Match may include a pro-rata cost of equipment used during the period of structured training on the equipment.

**7.28(8)** Application review. Applications will be reviewed utilizing the scoring criteria established under rule 261—7.21(260F). Additional considerations for job retention program applications include the size of the investment that necessitates the training needs, time period over which investment is to occur, and number of employees to be trained.

**7.28(9)** Agreement.

a. The agreement between the participating business, community college and department shall include, but not be limited to, the following:

- (1) The date of the agreement;
- (2) The anticipated number of employees to be trained;
- (3) The estimated cost of training;
- (4) A statement regarding the number of employees employed by the participating business on the date of the agreement, which must equal at least the lesser of 1000 employees or 4 percent or more of the county's resident labor force based on the most recent annual labor force statistics from the department of workforce development;
- (5) A commitment that the participating business shall invest at least \$15 million to retool the workplace and upgrade the facilities of the participating business;
- (6) A commitment that the participating business shall not move the business operation out of this state or close the business operation for at least ten years following the date of the agreement;
- (7) Other conditions established by the Iowa department of economic development;
- (8) Time frame in which the investment in retooling is to occur at the affected workplace;
- (9) Time frame in which training is to occur;
- (10) Type of training to be undertaken.

b. A job retention project agreement entered into pursuant to this rule must be approved by the board of trustees of the applicable community college, the Iowa department of economic development, and the participating business.

c. Awards under the job retention program that exceed \$1 million shall require approval by the grow Iowa values board.

**7.28(10)** Reporting requirements.

a. A community college that enters into an agreement pursuant to this chapter shall submit to the grow Iowa values board an annual written report, in a manner and form prescribed by the department, by the end of each calendar year. The report shall provide information regarding how the agreement affects the achievement of the goals and performance measures provided in the Act. By January 15 of each year, the department shall submit a written report to the gen-

eral assembly and the governor regarding the activities of the job retention program during the previous calendar year.

b. The annual progress report submitted by the community colleges shall include the information as provided in 261—Chapter 9.

**7.28(11)** Events of default, options and procedures on default, remedies upon default. Rules 261—7.30(260F) to 7.32(260F) shall apply to the job retention program. In addition, should the business cease operation or not maintain its presence at the workplace location for ten years following the date of the agreement, the award shall be repaid by the business, prorated over the number of years remaining in the required ten-year period.

**261—7.29(80GA,HF692,HF683) Special requirements for projects funded through the grow Iowa values fund.**

Moneys allocated through the grow Iowa values fund to the workforce training and economic development funds of each community college for a fiscal year may be expended for the purposes allowed under Iowa Code chapter 260F, provided the use meets the requirements established under 261—Chapter 9. Moneys allocated under the workforce training and economic development fund are targeted primarily for use in projects in the areas of advanced manufacturing; information technology and insurance; and life sciences, which include the areas of biotechnology, health care technology, and nursing care technology.

**7.29(1)** Exemption for award limits and grow Iowa values board approval. Moneys under this rule will be exempt from maximum award limits as covered under subrules 7.5(1) and 7.5(2), and 7.6(1) and 7.6(2). Applications to be awarded from workforce training and economic development funds as appropriated from grow Iowa values moneys that are to exceed \$1 million require approval of the grow Iowa values board.

**7.29(2)** Availability of workforce training and economic development funds. For a community college to utilize the funds afforded under the grow Iowa values fund for 260F projects, the college shall prepare and submit to the department a two-year implementation plan regarding the proposed uses of the grow Iowa values moneys. The plan shall be updated annually and submitted with a progress report to the department to be approved by the grow Iowa values board. This reporting requirement will be accomplished as described in 261—Chapter 9.

ITEM 3. Amend **261—Chapter 7**, implementation sentence, as follows:

These rules are intended to implement *2003 Iowa Acts, First Extraordinary Session, House File 692, and Iowa Code chapter 260F as amended by 2004 2003 Iowa Acts, House File 718 First Extraordinary Session, House File 683, section 24.*

ITEM 4. Amend 261—Chapter 20 by adopting the following **new** division:

**DIVISION V - WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT PROGRAM OPERATING COSTS**

**261—20.19(80GA,HF692,HF683) Grow Iowa values fund assistance.**

Moneys allocated through the grow Iowa values fund to the workforce training and economic development funds to each community college for a fiscal year may be expended for the purposes allowed under Iowa Code section 260G.3, provided the use meets the requirements established under 261—Chapter 9. Moneys allocated under the workforce training and economic development fund are targeted primarily for use in projects in the areas of advanced

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

manufacturing; information technology and insurance; and life sciences, which include the areas of biotechnology, health care technology, and nursing care technology.

**20.19(1)** Use of funds. Moneys from a workforce training and economic development fund created in 2003 Iowa Acts, First Extraordinary Session, House File 683, section 76, may be used for program operating costs of an approved 260G project. Such use may be authorized in an agreement between a community college and an employer. The amount of grow Iowa values funds available to any single 260G project shall be determined in the same manner as program job credits under subrule 20.15(1). Workforce training and economic development funds may be used in lieu of program job credits or in addition to program job credits.

**20.19(2)** Availability of workforce training and economic development funds. In order for a community college to utilize the funds afforded under the grow Iowa values fund for program operating costs of 260G projects, the college shall prepare and submit to the department a two-year implementation plan regarding the proposed uses of the grow Iowa values moneys. The plan shall be updated annually and submitted with a progress report to the department to be approved by the grow Iowa values board. This reporting requirement will be accomplished as described in 261—Chapter 9.

**20.19(3)** Awards in excess of \$1 million. Applications to be awarded from workforce training and economic development funds as appropriated from grow Iowa values moneys that are to exceed \$1 million require approval of the grow Iowa values board.

ITEM 5. Amend **261—Chapter 20**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement chapter 260G as amended by 2000 2003 Iowa Acts, chapter 1196 First Extraordinary Session, House Files 692 and 683, and 2000 Iowa Acts, chapter 1225.

[Filed Emergency After Notice 11/20/03, effective 11/20/03]

[Published 12/24/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/24/03.

## ARC 3028B

### ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

#### Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts new Chapter 9, "Workforce Training and Economic Development Funds," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 17, 2003, as **ARC 2754B**. The Iowa Department of Economic Development adopted these rules on November 20, 2003.

This amendment updates the rules to incorporate legislative changes enacted during the 80th General Assembly, First Extraordinary Session. This new chapter establishes the workforce training and economic development funds for each community college, describes how moneys are made available to community colleges, defines allowable uses for

the moneys, and establishes reporting requirements for projects involving grow Iowa values moneys.

A public hearing to receive comments about the proposed amendment was held on October 8, 2003. The following comments were received:

The need for an allocation method to allow the community colleges to obtain the funds for disbursement on eligible activities was expressed.

Clarification of the time frame to submit community college plans and progress reports for the funds was requested.

A request to insert the definition of "career academy" as developed by the Department of Education was made.

A request was received for clarification that, even though the funding source is Grow Iowa Values Fund, the existing 260F and 260G rules apply to applications for GIVF.

Comments were received about access to the programs by other entities and criteria restricting businesses from utilizing funds.

Other comments received were in regard to providing proper terminology and removing duplicative language, and performance criteria related to tracking students after they complete programs funded under the Workforce Training and Economic Development fund.

Additionally, a request was made that IDED implement the amendments on an emergency basis because of pending projects.

Based on these comments, the following changes were made to the proposed rules:

1. In rule 261—9.2(80GA, HF683, HF692), the definition of "agreement" was not adopted because it is unnecessary.

2. Rule 261—9.3(80GA, HF683, HF692) was amended to clarify that each community college is to establish its own workforce training and economic development fund and that the Department shall make deposits to the fund on a quarterly or more frequent basis based on the allocation as determined by the distribution formula.

3. Rule 261—9.4(80GA, HF683, HF692), introductory paragraph, was amended to provide transitional language for the first fiscal year. This rule requires that for the first fiscal year a community college must adopt a two-year workforce training and economic development fund plan outlining the community college's proposed use of the moneys prior to receiving its allocation of moneys. The other requirements of rule 261—9.4(80GA, HF683, HF692) apply to the subsequent fiscal year allocations.

4. Subrule 9.5(3) was amended to cite the rule that defines "career academy" adopted by the Iowa Department of Education.

5. Subrule 9.6(1) was amended to clarify that the subrule applies only to projects that meet the requirements of Iowa Code chapter 260F.

6. Subrule 9.6(2) was amended to clarify that the subrule applies only to projects that meet the requirements of Iowa Code chapter 260G.

7. Rule 261—9.7(80GA, HF683, HF692), introductory paragraph and subrule 9.7(1), were amended to provide transitional language for the first year of the fund. In addition, the language parallels that of 2003 Iowa Acts, First Extraordinary Session, House File 683, section 76, in that the plan is to be submitted to the Iowa Department of Economic Development and a copy is to be filed with the Grow Iowa Values Board. The language also parallels that of House File 683, section 76, by making reference to vocational and technical training projects and in-service training and retraining projects. The revisions to the language allow the rule to encompass all aspects of allowable spending.

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

8. Subrule 9.8(1) was amended to require community colleges that are receiving an allocation of moneys to file an annual progress report. Since the definition of "agreement" was not adopted, the rewording of the subrule adequately describes the community colleges that are required to file the report. The date by which the progress report is to be submitted was changed to April 30 of each year to correspond with the same date in subrule 9.4(3).

9. Paragraphs 9.8(2)"d" and "e" were amended to combine subparagraphs (3) and (4) which require a listing of the number of job placements in Iowa for students completing programs. This change led to the revision of proposed subparagraph (4) of paragraph "d" and subparagraph (5) of paragraph "e" in order to measure the results in a positive rather than a negative manner.

10. Subrule 9.8(3) was not adopted, a change which eliminates almost identical language that is contained in subrule 9.9(1).

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendment, 35 days after publication, should be waived and the rules be made effective upon filing on November 20, 2003. An emergency adoption is of benefit to the public because a number of projects and potential projects require immediate attention and may not occur or would be impaired should funding not be available in the immediate short term.

These rules are intended to implement 2003 Iowa Acts, First Extraordinary Session, House Files 683 and 692.

These rules became effective November 20, 2003.

The following new chapter is adopted.

#### CHAPTER 9 WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT FUNDS

**261—9.1(80GA,HF683,HF692) Purpose.** The purpose of the workforce training and economic development funds is to provide revenue for each community college to address the workforce development needs of the state with the primary focus of providing training and retraining of Iowa workers to develop the skills of employees employed in targeted industries or to address a workforce development need of a targeted industry. Moneys are appropriated for each community college fund from the grow Iowa values fund.

**261—9.2(80GA,HF683,HF692) Definitions.**

"Community college" or "college" means a community college established under Iowa Code chapter 260C.

"Department" or "IDED" means the Iowa department of economic development created in Iowa Code chapter 15.

"Fund" or "funds" means the workforce training and economic development funds created by 2003 Iowa Acts, First Extraordinary Session, House File 683, section 78, and allocated to each community college.

"GIVF" or "grow Iowa values fund" means moneys appropriated to the grow Iowa values fund established by 2003 Iowa Acts, First Extraordinary Session, House File 692, section 84.

"Grow Iowa values board" or "GIVF board" means the grow Iowa values board created by 2003 Iowa Acts, First Extraordinary Session, House File 692, section 78.

"Iowa economic development board" or "IDED board" means the Iowa economic development board established in Iowa Code section 15.103.

"Project" means a training or educational activity funded with grow Iowa values funds.

**261—9.3(80GA,HF683,HF692) Funds allocation.** The department shall allocate moneys, appropriated by the general assembly or other moneys accepted by the department, for the workforce training and economic development fund established for each community college by utilizing the most current distribution formula that is used for the allocation of state general aid to the community colleges available on July 1 of the fiscal year for which funds are being allocated. Each community college shall establish a workforce training and economic development fund account within its college accounting system into which the department shall make deposits of the allocated moneys. The deposits shall be made quarterly or on a more frequent basis. Moneys that are not used and that remain in a community college's fund at the end of a fiscal year shall remain available to that college for expenditure in subsequent fiscal years.

**261—9.4(80GA,HF683,HF692) Community college workforce and economic development plan and progress report.**

For the fiscal year beginning July 1, 2003, each community college, prior to receiving its allocation, shall adopt and submit to the department with a copy filed with the GIVF board a two-year workforce training and economic development plan that outlines the community college's proposed use of the grow Iowa values fund moneys allocated to the community college. For the fiscal year beginning July 1, 2004, and each fiscal year thereafter, each community college, to receive its allocation for the forthcoming fiscal year, shall prepare and submit to the department for the GIVF board the following items prior to the start of the forthcoming fiscal year:

**9.4(1)** Two-year workforce training and economic development fund plan. Each college shall adopt a two-year workforce training and economic development fund plan that outlines the community college's proposed use of the grow Iowa values fund moneys appropriated to its fund. Plans shall be based on fiscal years and must be submitted to the department by April 30 prior to the forthcoming fiscal year allocation.

**9.4(2)** Plan updates. Plans shall be updated annually outlining proposed uses for the next two fiscal years, and must be submitted to the department by April 30 prior to the forthcoming fiscal year allocation.

**9.4(3) Progress reports.**

a. Each college shall prepare an annual progress report on the two-year plan's implementation. This progress report shall address the following goals and performance measures established by the general assembly for the GIVF:

- (1) Expanding and stimulating the state's economy;
- (2) Increasing the wealth of Iowans; and
- (3) Increasing the population of the state.

b. The report shall be submitted in a manner and form as prescribed by IDED and shall meet the requirements of rule 261—9.8(80GA,HF683,HF692).

c. Each college shall annually submit the two-year plan and progress report to the department in a manner prescribed by these rules, and annually file a copy of the plan and progress report with the grow Iowa values board. Plans and progress reports shall be submitted to IDED by April 30. For the fiscal year beginning July 1, 2004, and each fiscal year thereafter, a community college shall not have moneys deposited in the workforce training and economic development fund of that community college unless the grow Iowa values board has approved the annual progress report of the community college.

**261—9.5(80GA,HF683,HF692) Use of funds.** Moneys deposited into each community college fund shall be used for



## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

the following purposes, provided that 70 percent of the moneys be used on projects in the areas of advanced manufacturing; information technology and insurance; and life sciences, which include the areas of biotechnology, health care technology and nursing care technology:

**9.5(1)** Projects in which an agreement between a community college and an employer located within the community college's merged area meets all of the requirements of the accelerated career education (ACE) program pursuant to Iowa Code chapter 260G and IDED rules for the ACE program, 261—Chapter 20.

**9.5(2)** Projects in which an agreement between a community college and a business meets all the requirements of the Iowa jobs training Act under Iowa Code chapter 260F and IDED's administrative rules in 261—Chapter 7.

**9.5(3)** For the development and implementation of career academies designed to provide new career preparation opportunities for high school students that are formally linked with postsecondary career and technical education programs. "Career academy" means a program of study that combines a minimum of two years of secondary education with an associate degree in a career preparatory program. A diploma or certificate may be provided as options within the associate degree program. The career academy is a program of study that is nonduplicative, sequential, and ensures that the course of study is skill standards-based, integrates academic and technical instruction, utilizes work-based and work site learning where appropriate and available, utilizes an individual career planning process with parent involvement, and prepares an individual for entry and advancement in a high-skill and rewarding career field as specified in 2003 Iowa Acts, First Extraordinary Session, chapter 2, section 76. A career academy may include articulation of the community college associate degree to a baccalaureate degree. "Nonduplicative" means that the postsecondary component of the career academy is not currently offered at a participating secondary school. This definition is set forth in rule 281—47.1(260C) adopted by the Iowa department of education.

**9.5(4)** Programs and courses that provide vocational and technical training and programs for in-service training and retraining under Iowa Code section 260C.1, subsections 2 and 3. As it pertains to Iowa Code section 260C.1, subsection 2, vocational and technical training shall mean new or expanded vocational coursework that has Iowa department of education approval and that results in the conferring of a diploma, degree, or certificate. The enhancement of academic core courses within the vocational program is also eligible. As it pertains to Iowa Code section 260C.1, subsection 3, eligible activities shall be short-term training and retraining projects.

**9.5(5)** Job retention program projects as authorized by 2003 Iowa Acts, First Extraordinary Session, House File 683, section 77, and IDED administrative rules in 261—Chapter 7.

**261—9.6(80GA,HF683,HF692) Approval of projects.** Activity within each fund will be reviewed by the department to aid in ensuring that the college's fund is meeting the requirement that 70 percent of the moneys allocated to the community college fund shall be used for projects in the areas of advanced manufacturing; information technology and insurance; and life sciences, which include the areas of biotechnology, health care technology, and nursing care technology. Any individual project using over \$1 million of moneys from a workforce training and economic development fund shall require prior approval from the grow Iowa values board. The

following procedures apply for approval of activities to be assisted by the grow Iowa values fund:

**9.6(1)** Projects which meet all of the requirements of the Iowa jobs training Act under Iowa Code chapter 260F will be reviewed and approved by the department under the applicable scoring criteria as found in 261—Chapter 7, Iowa Jobs Training Program.

**9.6(2)** Projects which meet all of the requirements of the accelerated career education (ACE) program pursuant to Iowa Code chapter 260G will be reviewed and approved by the department under the applicable scoring criteria as found in 261—Chapter 20, Accelerated Career Education Program.

**9.6(3)** For career academies, projects shall meet the requirements of career academies as described in subrule 9.5(3).

**9.6(4)** Vocational and technical training projects shall meet the requirements of new or expanded vocational and technical training.

**9.6(5)** In-service training and retraining projects shall meet the requirements for short-term training and retraining.

**261—9.7(80GA,HF683,HF692) Community college workforce and economic development plan.** A community college shall adopt a plan describing how the college proposes to use moneys allocated from the grow Iowa values fund for the forthcoming two years. For the fiscal year beginning July 1, 2003, the plan shall be submitted to the department with a copy filed with the GIVF board prior to the community college's receiving its allocation. For the fiscal year beginning July 1, 2004, and each fiscal year thereafter, the plan shall be submitted to the department and a copy filed with the grow Iowa values board prior to the beginning of the first fiscal year that is included in the plan. The plan shall include, at a minimum:

**9.7(1)** How the allocation will be distributed for the allowable uses of ACE, Iowa jobs training program, career academies, vocational and technical training projects, and in-service training and retraining projects;

**9.7(2)** The proposed amount of funds for use in the areas of advanced manufacturing; information technology and insurance; and life sciences, which include the areas of biotechnology, health care technology, and nursing care technology;

**9.7(3)** Under each proposed use, to what specific uses the funds would be directed;

**9.7(4)** The number of businesses proposed to be served or industry's training needs to be met by proposed distribution of funds;

**9.7(5)** The number of students or individuals proposed to be served;

**9.7(6)** Private investment, actual or proposed, that a business has incurred or will incur that creates the need for training;

**9.7(7)** Documentation, as necessary, to verify the above-listed factors.

**261—9.8(80GA,HF683,HF692) Reporting.**

**9.8(1)** Each community college that receives an allocation of moneys under rule 261—9.4(80GA,HF683,HF692) shall submit to the grow Iowa values board by April 30 of each year an annual written report regarding the accomplishments of the projects funded through the workforce training and economic development fund for the fiscal year, in a manner and form prescribed by the department. The report shall provide information regarding how projects aided by the community college's workforce training and economic development fund are meeting the goals and performance measures

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

of the grow Iowa values fund, as described in 2003 Iowa Acts, First Extraordinary Session, House File 692, section 83, and have resulted in an increase in the number of higher education graduates.

**9.8(2)** The report shall include, but not be limited to, report forms as provided under each of the programs and the following additional reports:

a. For 260F projects, the college shall provide documentation of the state's return on investment for projects funded by grow Iowa values moneys. Such measures may include:

(1) Quantification of, as a result of the training assistance provided, annual monetary cost savings or sales increases attributed by the business; and

(2) The increase in wage or salary for individuals trained as a result of the projects using Iowa values funds for individual projects.

b. For the job retention program, the college shall provide documentation of the state's return on investment for projects funded by grow Iowa values fund moneys. Such measures may include:

(1) Quantification of, as a result of the training assistance provided, annual monetary cost savings or sales increases attributed by the business;

(2) The increase in wage or salary for individuals trained as a result of the projects using Iowa values funds for individual projects;

(3) Documentation of capital investment that creates the need for training activities funded through the grow Iowa values fund;

(4) Payroll for facility affected and documentation of the number of employees and wages paid.

c. For 260G projects:

(1) Increase in number of individuals enrolled in 260G programs;

(2) The number of graduates;

(3) Number of job placements of students who complete programs;

(4) Number of job placements in Iowa;

(5) Number of job placements with participating companies.

d. For projects funded under Iowa Code section 260C.1, subsections 2 and 3:

(1) Increase in number of individuals enrolled in programs;

(2) The number of graduates;

(3) Number of job placements of students who complete programs;

(4) Increase in student retention in programs at the postsecondary level.

e. For career academies projects:

(1) Increase in number of individuals enrolled in programs;

(2) The number of graduates;

(3) Number of job placements in Iowa for students completing programs, if applicable;

(4) Increase in student retention in programs at the postsecondary level;

(5) Reduction in the number of students needing remediation at the postsecondary level.

**9.8(3)** By January 15 of each year, the department shall submit a written report to the general assembly and the governor regarding the activities funded by the job retention program during the previous calendar year.

## **261—9.9(80GA,HF683,HF692) Annual progress report approval.**

**9.9(1)** For the fiscal year beginning July 1, 2004, and each fiscal year thereafter, a community college shall not have moneys deposited in the workforce training and economic development fund of that community college unless the grow Iowa values board approves the annual progress report of the community college.

**9.9(2)** The board may reject a progress report for the following reasons, including but not limited to:

a. Information or data is incomplete;

b. Report does not address how grow Iowa values goals and performance measures have been met;

c. Fund is determined not to meet the goals and performance measures established under the grow Iowa values fund;

d. Use of funds fails to meet the college's two-year plan;

e. Seventy percent of the fund is not used for projects in the areas of advanced manufacturing; information technology and insurance; and life sciences, which include the areas of biotechnology, health care technology, and nursing care technology.

## **261—9.10(80GA,HF683,HF692) Options upon default or noncompliance.**

**9.10(1)** Should the board not accept a college's annual progress report, the college shall be subject to the following actions as prescribed by the GIVF board based upon the severity of the noncompliance or default, including but not limited to:

a. Repayment of funds deemed ineligible or deemed not to meet the purposes of the grow Iowa values fund;

b. Withholding of a portion of new fiscal year moneys based upon amounts awarded deemed to be ineligible;

c. Tighter oversight and control of the college's fund by the department;

d. Loss of funds for one year;

e. Other action as deemed appropriate by the board.

**9.10(2)** Compliance with applicable labor laws. Recipients shall operate all projects in compliance with state and federal health, safety, equal opportunity, and other applicable labor laws.

These rules are intended to implement 2003 Iowa Acts, First Extraordinary Session, House Files 683 and 692.

[Filed Emergency After Notice 11/20/03, effective 11/20/03]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/24/03.

## **ARC 3031B**

## **ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

### **Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts amendments to Chapter 23, "Iowa Community Development Block Grant Program," Iowa Administrative Code.

The amendments raise the ceiling for grants made under the job creation, retention and enhancement set-aside portion of the program and establish the threshold for wages at 100

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

percent of the average county wage or 100 percent of the average regional wage. It also raises the set-aside amount to 25 percent of the annual allocation of funds. A transition provision is provided for applicants that will have fully completed preapplications pending before the Department prior to the January 1, 2004, effective date of these amendments, or fully completed preapplications that are postmarked or E-mailed to the Department by the close of business on December 31, 2003. These applications will be evaluated using the rules regarding wage thresholds in effect at the time of submittal.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable and contrary to the public interest because the amendments confer a benefit to the public by making additional funds available for job creation in the most expedient means practicable. The amendments establish the same requirements for state and federal program funding, thereby simplifying the process for application for these resources.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments, 35 days after publication, should be waived and the rules be made effective on January 1, 2004. These amendments confer a benefit on the public by simplifying the application process and raising the ceiling on the amount of funding available per project.

These amendments are also published herein under Notice of Intended Action as **ARC 3033B** to allow for public comment.

The Department is taking the following steps to notify potentially affected parties of the effective date of the rule: publishing the rules in the Iowa Administrative Bulletin, providing free copies on request, and having copies available wherever requests for information about the program are likely to be made.

These rules are intended to implement Iowa Code section 15.108(1)"a."

These rules will become effective on January 1, 2004.

The following amendments are adopted.

ITEM 1. Amend rule **261—23.2(15)** by adding the following new definitions in alphabetical order:

"Average county wage" means the average the department calculates annually using the most current four quarters of wage and employment information as provided in the Quarterly Covered Wage and Employment Data report as provided by the Iowa workforce development department, audit and analysis section. Agricultural/mining and governmental employment categories are deleted in compiling the wage information.

"Average regional wage" means the wage calculated annually by the department using a methodology in which each particular county is considered to be a geographic center of a larger economic region. The wage threshold for the central county is calculated using the average wage of that county, plus each adjoining county, so that the resulting figure reflects a regional average that is representative of the true labor market area. In performing the calculation, the greatest importance is given to the central county by weighting it by a factor of four, compared to weighting of one for each of the other adjoining counties. The central county is given the greatest importance in the calculation because most of the employees in that central county will come from that same county, as compared to commuters from other adjoining counties.

ITEM 2. Amend subrule 23.4(4) as follows:

**23.4(4)** Job creation, retention and enhancement fund. ~~Twenty~~ *Twenty-five* percent of the funds shall be reserved for a job creation, retention and enhancement fund to be for workforce development and to expand economic opportunities and job training for LMI persons. Job creation, retention and enhancement funds are awarded through three programs: the economic development set-aside (EDSA), the public facilities set-aside (PFSA), and career link.

ITEM 3. Amend subrule 23.7(1) as follows:

**23.7(1)** Restrictions on applicants.

a. No change.

b. The maximum grant award for individual business assistance applications from any city or county is \$500,000 *\$1,000,000*.

c. The average starting wage of jobs to be created or retained by a proposed project shall meet or exceed the ~~lowest~~ *lower of 80 100* percent of the average county wage, ~~80 or 100~~ percent of the average regional wage, ~~or the annual wage cap~~.

d. to j. No change.

k. *Transition provision. Applicants that have fully completed preapplications pending before the department prior to January 1, 2004, or fully completed preapplications that are postmarked or E-mailed to the department by the close of business on December 31, 2003, will be evaluated using the rules regarding wage thresholds in effect at the time of submittal.*

[Filed Emergency 11/20/03, effective 1/1/04]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/24/03.

**ARC 3030B****ECONOMIC DEVELOPMENT, IOWA  
DEPARTMENT OF[261]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby adopts amendments to Chapter 53, "Community Economic Betterment Program," Iowa Administrative Code.

The amendments increase the wage threshold requirements for eligibility for assistance. To be eligible, project jobs must have a starting wage equal to or exceeding 100 percent of the average county wage or 100 percent of the average regional wage, whichever is lower, and over 50 percent of the pledged jobs must be at or above the 100 percent level. These changes are intended to assist the Department in meeting the legislative mandate to the Department to raise the average wage of Iowans. These amendments are intended to complement the wage thresholds established by the Iowa Values Board for its financial assistance programs.

A transition provision is provided for applicants that will have fully completed preapplications pending before the Department prior to the January 1, 2004, effective date of these amendments, or fully completed preapplications that are postmarked or E-mailed to the Department by the close of business on December 31, 2003. These applications will be evaluated using the rules regarding wage thresholds in effect at the time of submittal.

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

In compliance with Iowa Code section 17A.4(2), the Board finds that notice and public participation are impracticable and contrary to the public interest because these amendments establish consistent wage threshold requirements for financial assistance programs administered by IDED.

The Board finds, pursuant to Iowa Code section 17A.5(2)“b”(2) that the normal effective date of the amendments, 35 days after publication, should be waived and the amendments be made effective on January 1, 2004. These emergency amendments confer a benefit on the public because they provide a more uniform wage threshold for financial assistance programs. The application process will be more understandable to applicants because the wage threshold requirements will be the same for CEBA and EDSA. These wage levels complement the wage thresholds established by the Iowa Values Board for its programs.

These amendments are also published herein under Notice of Intended Action as **ARC 3032B** to allow for public comment.

These amendments are intended to implement Iowa Code chapter 15 and 2003 Iowa Acts, First Extraordinary Session, chapters 1 and 2.

The IDED Board adopted these amendments on November 20, 2003.

These amendments will become effective on January 1, 2004.

The following amendments are adopted.

Amend subrule 53.6(1) as follows:

**53.6(1) General policies.**

a. An applicant may submit as many different applications as it wishes at any time. However, if the department is reviewing two or more applications from the same applicant at the same time, it may ask the applicant to rank them in the order preferred by the applicant;

b. Only one applicant may apply for any given project;

c. No single project may be awarded more than \$1 million unless at least two-thirds of the members of the board approve the award. However, this restriction will not apply after the first \$10 million has been credited to the CEBA program in any given year. This restriction does not apply to the float loan described in 53.5(2)“4.”

d. No single project may be awarded a forgivable loan of more than \$500,000.

e. No single project may be awarded more than \$500,000 unless all other applicable CEBA requirements and each of the following criteria is met:

(1) The business has not closed or substantially reduced its operation in one area of the state and relocated substantially the same operation in the community. This requirement does not prohibit a business from expanding its operation in the community if existing operations of a similar nature in the state are not closed or substantially reduced.

(2) The business must provide and pay at least 80 percent of the cost of a standard medical and dental insurance plan or its equivalent for all full-time employees working at the facility in which the new investment occurred.

(3) The business shall agree to pay a median wage for new full-time jobs of at least 130 percent of the average wage in the county in which the community is located. This requirement may be waived by the department in the case of a float loan described in 53.5(2)“4” if the net value of the award is determined by the department to be less than \$500,000.

f. ~~No more than \$100,000 may be awarded to a business start-up unless the project jobs have a starting wage equal to or exceeding 90 percent of the average county wage, 90 percent of the average regional wage, or the annual wage cap, whichever is lowest, and over 50 percent of the business's employees' wages are at or above the 90 percent level or the annual wage cap, whichever is lower.~~

g.f. To be eligible for assistance the business shall provide for a preference for hiring residents of the state or the economic development area, except for out-of-state employees offered a transfer to Iowa or the economic development area.

h.g. All applicants for financial assistance shall comply with the requirements of 261—Chapter 168.

i.h. To be eligible for assistance, applicants shall meet the following wage threshold requirements:

(1) Project positions shall have a starting wage of at least ~~90 100~~ percent of the average county wage, ~~90 or 100~~ percent of the average regional wage, ~~or the annual wage cap, whichever is lowest~~ *lower*.

(2) Fifty percent or more of the jobs to be created or retained shall have a starting wage of at least ~~90 100~~ percent of the average county wage, ~~90 or 100~~ percent of the average regional wage, ~~or the annual wage cap, whichever is lowest~~ *lower*.

(3) ~~If the applicant is a business start-up, project positions shall have a starting wage of at least 80 percent of the average county wage, 80 percent of the average regional wage, or the annual wage cap, whichever is lowest, and over 50 percent of the business's employees' wages shall be at or above the 80 percent level or the annual wage cap, whichever is lower.~~

(4) ~~The annual wage cap referenced in this rule shall be adjusted annually by calculating the percent increase or decrease in average Iowa hourly earnings level for all production and nonproduction workers in the private sector from the month of June of the previous year to June of the current year. This report is compiled by the Iowa workforce development department.~~

(5) (3) Where the community can document to the department's satisfaction that a significant differential exists between the actual local county wage (as determined by a local employer survey) and the average county wage or average regional wage, the department may substitute the community survey results for the average county wage or average regional wage for consideration in a specific project. Qualification of a project would not be anticipated unless the starting project wage was clearly above the survey wage.

(6) (4) The department may approve a project where the starting project wage is less than the average county wage or average regional wage under the following conditions:

1. The starting wage is associated with a training period which is of relatively short duration as documented by the business; and

2. The wages will exceed ~~90 100~~ percent of the average county wage, ~~90 or 100~~ percent of the average regional wage, ~~or the annual wage cap~~ at the conclusion of the training period as documented by the business; and

3. CEBA funds will be released only at the conclusion of the training period when the average county or average regional wage is achieved.

j.i. A business receiving moneys from the department for the purpose of job creation shall make available 10 percent of the new jobs created for PROMISE JOBS program participants.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

*j. Transition provision. Applicants that have fully completed preapplications pending before the department prior to January 1, 2004, or fully completed preapplications that are postmarked or E-mailed to the department by the close of business on December 31, 2003, will be evaluated using the rules regarding wage thresholds in effect at the time of submittal.*

[Filed Emergency 11/20/03, effective 1/1/04]

[Published 12/24/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/24/03.

## ARC 3052B

### INSURANCE DIVISION[191]

#### Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby amends Chapter 5, "Regulation of Insurers—General Provisions," Iowa Administrative Code.

The amendment to subrule 5.24(3) corrects a citation error that resulted from the restructuring of rule 191—5.24(507C).

The amendments to rule 191—5.25(505) provide guidance to insurers relative to the appropriate use of indemnification and arbitration language in agreements with independent certified public accountants and provide additional guidance in the completion of notes to financial statements filed with the Commissioner. These amendments adopt the 1998 and 2001 amendments to the NAIC model regulation.

Notice of Intended Action was published in the October 1, 2003, Iowa Administrative Bulletin as **ARC 2796B**.

A public hearing was held at 10 a.m. on October 22, 2003, at the office of the Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. No comments were received.

These amendments are identical to the Notice of Intended Action.

Pursuant to Iowa Code section 17A.5(2)"b"(2), these amendments shall become effective January 1, 2004. The Commissioner finds that these amendments confer a benefit on the public by preventing persons or firms providing certified public accountants from obtaining indemnification for failure to adhere to auditing or professional standards.

These amendments are intended to implement Iowa Code chapter 505.

These amendments will become effective January 1, 2004. The following amendments are adopted.

ITEM 1. Amend subrule 5.24(3) as follows:

**5.24(3)** Any insurer subject to an order under subrule 5.24(2) may request, pursuant to rule 191—3.5 3.4(17A,502,505), review of that order. Any ensuing hearing shall not be open to the public, unless the insurer requests otherwise.

ITEM 2. Amend subrule **5.25(2)** by adopting the following **new** definition in alphabetical order:

"Indemnification" means an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing of other misrepresentations made by the insurer or its representatives.

ITEM 3. Amend subrule **5.25(2)**, definition of "insurer," as follows:

"Insurer" means a licensed insurer under Title ~~XX~~ **XIII** of the Iowa Code, except entities organized under Iowa Code chapters 512A, 512B, 518, and 518A.

ITEM 4. Amend subrule **5.25(4)**, paragraph "**f**," as follows:

f. Notes to financial statements. These notes shall be those required by the appropriate *National Association of Insurance Commissioners* (NAIC) annual statement instructions and the *NAIC accounting practices and procedures manual*. The notes shall include: ~~any other notes required by generally accepted accounting principles and shall also include:~~

(1) A reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed pursuant to Iowa Code sections 508.11 and 515.63 with a written description of the nature of these difficulties *differences*.

(2) No change.

ITEM 5. Amend subrule **5.25(5)**, first unnumbered paragraph, as follows:

The insurer shall obtain a letter from the accountant, and file a copy with the commissioner, stating that the accountant is aware of the provisions of Title ~~XX~~ **XIII** of the Iowa Code and administrative rules thereunder that relate to accounting and financial matters and affirming that the accountant will express an opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by the insurance division, specifying such exceptions as the accountant may believe appropriate.

ITEM 6. Amend subrule 5.25(6) as follows:

**5.25(6)** Qualifications of independent certified public accountant.

a. The commissioner shall not recognize any person or firm as a qualified independent certified public accountant that:

(1) *is* Is not in good standing with the American Institute of CPAs and in all states in which the accountant is licensed to practice, or, for a Canadian or British company, that is not a chartered accountant; or

(2) *Has either directly or indirectly entered into an agreement of indemnity or release from liability (collectively referred to as indemnification) with respect to the audit of the insurer.*

b. Except as otherwise provided herein, independent certified public accountants shall be recognized as qualified as long as they conform to the standards of their profession, as contained in the Code of Professional Ethics of the American Institute of Certified Public Accountants and rules and regulations and code of ethics and rules of professional conduct of the Iowa accountancy examining board, or similar code.

c. *A qualified independent certified public accountant may enter into an agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration. However, in the event of a delinquency proceeding commenced against the insurer under Iowa Code chapter 507C, the mediation or arbitration provisions shall operate at the option of the statutory successor.*

e d. No partner or other person responsible for rendering a report may act in that capacity for more than seven consecutive years. Following any period of service such person shall be disqualified from acting in that or a similar capacity for

## INSURANCE DIVISION[191](cont'd)

the same company or its insurance subsidiaries or affiliates for a period of two years. An insurer may make application to the commissioner for relief from the above rotation requirement on the basis of unusual circumstances. The commissioner may consider the following factors in determining if the relief should be granted:

- (1) Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;
- (2) Premium volume of the insurer; or
- (3) Number of jurisdictions in which the insurer transacts business.

The requirements of this paragraph shall become effective on August 28, 1993.

d. e. The commissioner shall not recognize as a qualified independent certified public accountant, nor or accept any annual audited financial report prepared in whole or in part by, any natural person who:

- (1) Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Sections 1961-1968, or any dishonest conduct or practices under federal or state law;

- (2) Has been found to have violated the insurance laws of this state with respect to any previous reports submitted under this rule; or

- (3) Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this rule.

e. f. The commissioner of insurance, under 191—Chapter 3, may hold a hearing to determine whether a certified public accountant is qualified and, considering the evidence presented, may rule that the accountant is not qualified for purposes of expressing the opinion of the accountant on the financial statements in the annual audited financial report made pursuant to this rule and require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this rule.

[Filed Emergency After Notice 12/4/03, effective 1/1/04]  
[Published 12/24/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/24/03.

**ARC 3054B****INSURANCE DIVISION[191]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 505.8 and 508.36, the Insurance Division hereby amends Chapter 5, "Regulation of Insurers—General Provisions," Iowa Administrative Code.

The new rule provides guidance to domestic insurers and fraternal benefit societies doing business in this state and to all life insurance companies and fraternal benefit societies which are authorized to reinsure life insurance, annuities or accident and health insurance business in this state relative to guidelines and standards for statements of actuarial opinion and supporting memoranda.

The new rule, in part, omits the substance of current subrules 5.34(6) and 5.34(7) and incorporates new language relating to the appointed actuaries' ability to utilize their professional judgment in performing the asset analysis and developing the actuarial opinion and supporting memoranda, consistent with relevant actuarial standards of practice. The

new rule will require all companies doing business in Iowa to file an actuarial opinion and memorandum that contains an asset adequacy analysis in accordance with the rule.

Notice of Intended Action was published in the October 1, 2003, Iowa Administrative Bulletin as **ARC 2794B**.

A public hearing was held October 22, 2003, at the office of the Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. No comments were received.

This rule is identical to the one published under Notice of Intended Action.

Pursuant to Iowa Code section 17A.5(2)"b"(2), this rule shall become effective January 1, 2004. The Commissioner finds that this rule confers a benefit on the public by strengthening the solvency regulation of insurers.

This rule is intended to implement Iowa Code section 508.36.

This amendment will become effective January 1, 2004.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this rule [5.34] is being omitted. This rule is identical to the one published under Notice as **ARC 2794B**, IAB 10/1/03.

[Filed Emergency After Notice 12/4/03, effective 1/1/04]  
[Published 12/24/03]

[For replacement pages for IAC, see IAC Supplement 12/24/03.]

**ARC 3053B****INSURANCE DIVISION[191]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 505.8, 508.36 and 508.37, the Insurance Division hereby amends Chapter 42, "Gender-Blended Minimum Nonforfeiture Standards for Life Insurance," Chapter 44, "Smoker/Nonsmoker Mortality Tables for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits," and Chapter 47, "Valuation of Life Insurance Policies," and adopts new Chapter 91, "2001 CSO Mortality Table," Iowa Administrative Code.

The amendments to the Division's rules are necessary to recognize, permit and prescribe the use of the 2001 CSO Mortality Table in determining the minimum reserve liabilities and nonforfeiture benefits. Iowa Code sections 508.36 and 508.37 authorize the Commissioner to adopt any mortality table adopted by the National Association of Insurance Commissioners. The National Association of Insurance Commissioners adopted the table in December 2002. The table reflects increases in life expectancy since the adoption of the 1980 CSO Mortality Table. Insurers may use the 2001 CSO Mortality Table only for new policies issued after January 1, 2004. Beginning January 1, 2009, insurers will be required to use the table for their insurance products issued after that date.

Notice of Intended Action was published in the October 1, 2003, Iowa Administrative Bulletin as **ARC 2795B**.

A public hearing was held at 10 a.m. on October 21, 2003, at the offices of the Insurance Division. No comments were received.

The amendments are identical to those published under Notice of Intended Action.

## INSURANCE DIVISION[191](cont'd)

Pursuant to Iowa Code section 17A.5(2)“b”(2), these amendments shall become effective January 1, 2004. The Commissioner finds that these amendments confer a benefit on the public by updating the mortality factors to reflect increased life expectancy and may result in a lower cost of insurance for consumers.

These amendments are intended to implement Iowa Code sections 508.36 and 508.37.

These amendments will become effective January 1, 2004.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [42.6, 44.6, 47.7, Ch 91] is being omitted. These amendments are identical to those published under Notice as **ARC 2795B**, IAB 10/1/03.

[Filed Emergency After Notice 12/4/03, effective 1/1/04]  
[Published 12/24/03]

[For replacement pages for IAC, see IAC Supplement 12/24/03.]

**ARC 3050B****PUBLIC SAFETY  
DEPARTMENT[661]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 17A.3 and 321.4, the Department of Public Safety hereby amends Chapter 55, “Volunteer Fire Fighter Training and Equipment Fund,” Iowa Administrative Code.

2003 Iowa Acts, chapter 177, provides an appropriation of \$500,000 to the Fire Marshal Division of the Department of Public Safety “for allocation to the fire service training bureau to establish a revolving loan program for equipment purchases by local fire departments.” These rules establish requirements and procedures for participation in the revolving loan fund. Prior to preparation of these rules, the State Fire Marshal received a recommendation for rules governing the revolving loan fund from the State Fire Service and Emergency Response Council. While these rules differ in certain respects from the recommendation of the Council, the framework provided by the Council is the basis of these rules.

These amendments will become effective January 1, 2004, and will enable an initial round of loan applications to be considered and acted upon early in 2004. The schedule for this initial round of applications to be considered will be as follows: (1) The application process will officially open on January 15, 2004; (2) The deadline for submitting applications to be considered in the initial round will be March 1, 2004; and (3) The target date for the Fire Marshal to announce decisions regarding the first round of applications will be April 1, 2004.

These rules contain an exception to subrule 55.204(1), which specifies the procedures for giving public notice of the availability of loan funds. For the initial round of loans, there will not be a Notice of Availability of Public Funds published in the Iowa Administrative Bulletin prior to the commencement of the application process due to the relatively short time before the application process will open. In the future, it is expected that all loan application processes will be announced by a Notice of Availability of Public Funds in the

Iowa Administrative Bulletin, as well as by the other methods specified in subrule 55.204(1).

A Notice of Intended Action proposing these amendments was submitted along with these Adopted and Filed Emergency amendments. Adoption of the rules through the normal rule-making process will provide an opportunity for public comment and participation in the rule-making process. The proposed rules contained in the Notice of Intended Action, published herein as **ARC 3051B**, are similar to the rules adopted here, with one change. The exception to subrule 55.204(1) contained in these rules is not included in the rules proposed in the Notice of Intended Action. The exception provides that there will be no Notice of Availability of Public Funds, separate from the publication of the emergency rules, to announce the initial round of loans from the Fire Fighting Equipment Revolving Loan Fund. The publication of the emergency rules will serve as that notice.

Pursuant to Iowa Code section 17A.4(2), the Department finds that notice and public participation prior to the adoption of these amendments is impracticable, as it is desirable that funds from the Fire Fighting Equipment Revolving Loan Fund be made available as soon as possible.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department further finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective January 1, 2004, after filing with the Administrative Rules Coordinator. These amendments confer a benefit upon the public by facilitating the distribution of funds for vital equipment purchase or repairs of fire fighting equipment.

These amendments are intended to implement 2003 Iowa Acts, chapter 177, section 11.

These amendments will become effective on January 1, 2004.

The following amendments are adopted.

ITEM 1. Amend the title of **661—Chapter 55** as follows:

**VOLUNTEER FIRE FIGHTER TRAINING AND  
EQUIPMENT FUND FUNDS**

ITEM 2. Renumber rules **661—55.1(17A,77GA,ch1222)** to **661—55.3(17A,77GA,ch1222)** as **661—55.101(17A,77GA,ch1222)** to **661—55.103(17A,77GA,ch1222)**, reserve rules 661—55.1 to 661—55.100 and 661—55.104 to 661—55.200 and add the following **new** division title before rule 661—55.101(17A,77GA,ch1222):

**DIVISION I****VOLUNTEER FIRE FIGHTER TRAINING AND EQUIPMENT FUND**

ITEM 3. Adopt the following **new** division in 661—Chapter 55:

**DIVISION II****FIRE FIGHTING EQUIPMENT REVOLVING LOAN FUND**

**661—55.201(80GA,ch177) Fire fighting equipment revolving loan fund.** There is established in the fire service training bureau in the fire marshal division the fire fighting equipment revolving loan fund.

**661—55.202(80GA,ch177) Purpose and scope.** The fire fighting equipment revolving loan fund is established to assist local fire departments to complete purchase or repairs of equipment used in the performance of the department's fire fighting duties, when the acquisition or repair of such equipment would be impractical in the absence of assistance from

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

the fund. Each payment of funds from the fund to a local fire department shall be a loan awarded in compliance with rules 661—55.201(80GA,ch177) to 661—55.207(80GA,ch177), and shall be for the specific purpose established in a contract entered into between the department of public safety and either the local fire department receiving the funds; or the city, county, or township of which the fire department is a part; or another legal entity authorized to enter into legally binding commitments on behalf of the fire department.

**661—55.203(80GA,ch177) Definitions.** For purposes of rules 661—55.201(80GA,ch177) to 661—55.207(80GA,ch177), the following definitions apply:

“Default” or “in default” means that more than one payment on a loan is currently due.

“Local fire department” means a paid, volunteer, or combination fire protection service provided by a benefited fire district under Iowa Code chapter 357B or by a county, municipality or township, or a private corporate organization that has a valid contract to provide fire protection service for a benefited fire district, county, municipality, township or governmental agency. “Local fire department” does not include a military or private industrial fire department or service.

“NFPA” means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form “NFPA xx,” where “xx” is a number, refer to the NFPA standard or pamphlet of the corresponding number.

“PASS” means personal alert safety system.

“SCBA” means self-contained breathing apparatus.

**661—55.204(80GA,ch177) Application process.**

**55.204(1)** Notice of availability of funds. Whenever funds are available for loans through the fire fighting equipment revolving loan fund, the department shall publish notice of the availability of those funds in the Iowa Administrative Bulletin and shall notify fire service organizations, including, but not limited to, the Iowa Firemen’s Association, the Iowa Fire Chiefs Association, and the Iowa Association of Professional Fire Chiefs, of the availability of those funds, the procedure for applying for loans through the program, the deadline for applying for funds, and the provisions of rules 661—55.201(80GA,ch177) to 661—55.207(80GA,ch177). All local fire departments in Iowa known to the fire service training bureau shall receive notice by mail or, when available, electronic mail. In addition, notice of availability of funds and the application procedure shall be published on the department’s Web site.

EXCEPTION: No separate notice of availability of funds shall be published in the Iowa Administrative Bulletin for the initial round of loan application and review. The schedule for the initial loan application and review process is as follows:

1. The application process officially opens on January 15, 2004;
2. The deadline for submitting applications to be considered in the initial round is March 1, 2004; and
3. The target date for the fire marshal to announce decisions regarding the first round of applications is April 1, 2004.

**55.204(2)** Application. Application for a loan from the fire fighting equipment revolving loan fund shall be made on an application form provided by the fire service training bureau. A completed application shall be submitted to the fire service training bureau by the deadline specified in the notice of availability of public funds and shall include any attached materials required in the instructions provided with the application form.

a. An application form shall be completed by the local fire department. The application shall include contact information, loan amount requested, purpose of the loan, statement of need, and current financial information, and any additional information specified on the application form or accompanying instructions, and shall be signed by an official authorized to enter into contracts on behalf of the local fire department.

b. In addition to the application, the following information will be required prior to loan approval:

(1) Documentation that the department requesting the loan meets the definition of a “local fire department.”

(2) Financial statements showing income, expenses, assets, liabilities, and sources of income for the department requesting the loan for a three-year period prior to the loan request date.

(3) Verification that the match requirement will be met. A letter from the executive or chief financial officer of the agency funding the match requirement will normally be sufficient.

(4) A copy of the contract, bid specifications, or proposal for purchase of the equipment/apparatus to be purchased with the loan proceeds, or repair work order, if applicable.

**55.204(3) Loan application review.**

a. The fire marshal, or another staff member of the fire marshal division designated by the fire marshal, and the chief of the fire service training bureau, or another staff member of the fire service training bureau designated by the bureau chief, shall review each application for completeness and compliance with rules 661—55.201(80GA,ch177) to 661—55.207(80GA,ch177). The fire marshal may assign additional staff of the fire marshal division to review applications and may request assistance from other employees of the department of public safety in the review process.

b. The state fire service and emergency response council, or a subcommittee of the council established for this purpose, shall serve as an advisory committee to the fire marshal in the loan application review process, and shall recommend to the fire marshal funding, partial funding, or denial of each application. Recommendations regarding loan applications shall be based upon availability of funds in relation to the total funds requested by eligible applicants, documentation of need for the proposed purchase or repair, and documentation of likely ability of the local fire department applying for a loan to repay the loan.

c. Decisions to award or not to award loans shall be made by the fire marshal.

**55.204(4)** Appeals. If a local fire department’s application is denied or partially funded by the fire marshal, the department may appeal the decision of the fire marshal to the commissioner of public safety using procedures for appeals set out in 661—Chapter 10.

**661—55.205(80GA,ch177) Allowable acquisitions.** Loans from the fire fighting equipment revolving loan fund may be used to acquire the following equipment or repair services with the limitations indicated:

1. Firefighting apparatus, including pumpers, tankers, ladder trucks, hazardous materials emergency response vehicles, or rescue vehicles. Any apparatus obtained with loan funds must comply with applicable NFPA standards, as identified by the fire marshal. Loans in this category may be awarded in amounts between \$25,000 and \$150,000.

2. Personal protective equipment and communications equipment, including personal protective clothing (structural and wild land) that includes helmets, coats, boots, pants, eye protection, gloves, and protective hoods; SCBA with inte-



## PUBLIC SAFETY DEPARTMENT[661](cont'd)

grated PASS devices; and radio communications devices. Radio communications devices obtained with loan funds must be interoperable with equipment utilized by agencies with which the agency obtaining the equipment has mutual aid agreements, if such interoperable equipment is available. Equipment obtained must comply with applicable NFPA standards, as identified by the fire marshal. Loans for purchase in this category are limited to amounts between \$10,000 and \$50,000.

3. Repairs made to apparatuses identified in paragraph "1." Loans in this category are limited to amounts between \$10,000 and \$50,000.

4. Purchase of accessory equipment, including fire suppression equipment such as hoses, ladders, small fireground tools, ventilation equipment, or vehicle extrication and rescue equipment. Equipment obtained with loan funds must comply with applicable NFPA standards, as identified by the fire marshal. Loans in this category are limited to amounts between \$10,000 and \$50,000.

5. The fire marshal, acting on the advice of the fire service and emergency response council, may establish priorities for funding through the revolving loan fund. If such priorities are established, they will be included in the notice of availability of funds and shall be utilized only if the total amount of funding requested exceeds the total of funds available to loan.

**661—55.206(80GA,ch177) Eligibility requirements and restrictions.**

**55.206(1)** Any local fire department in the state of Iowa is eligible to apply for a loan.

**55.206(2)** Loan applicants shall be required to provide a 10 percent match.

**55.206(3)** All successful loan applicants shall comply fully with the fire incident reporting requirements (NFIRS) of the fire marshal division.

**55.206(4)** No loan shall be made to a local fire department serving a population in excess of 30,000 people which will result in excess of 50 percent of the total funds loaned at any given time being loaned to local fire departments serving populations in excess of 30,000 people, unless the fire marshal finds that there are no eligible applications pending from local fire departments serving populations of 30,000 people or less.

**55.206(5)** Following approval, loan funds will be provided only after the local fire department receiving the loan submits documentation showing that the department has either acquired, contracted for, or issued a purchase order for the equipment. Disbursement of the loan shall be in the form of a warrant payable either to the local fire department and

the vendor or vendors supplying the equipment or repair services, or solely to the vendor or vendors, or, with the approval of the fire marshal, solely to the local fire department receiving the loan.

**55.206(6)** A local fire department is eligible for only one loan during any five-year period, or for the duration of an existing loan from this program, whichever is longer.

**55.206(7)** A local fire department that has been in default on a loan is not eligible for additional loans through this program for a period of two years beyond the time specified in subrule 55.206(6). Any prior history of defaulting on a loan from the revolving loan fund will be taken into account in evaluating a department's ability to repay a loan, pursuant to subrule 55.204(3), paragraph "b."

**55.206(8)** A local fire department receiving a loan is subject to a financial audit and any operational or program audits necessary to verify compliance with any requirements or conditions of the loan.

**661—55.207(80GA,ch177) Loan origination fee and repayment schedule.**

**55.207(1)** Each approved loan shall carry an origination fee of 1 percent of the loan amount, which shall be withheld by the fire service training bureau from the original payout of the loan.

**55.207(2)** A repayment schedule for each loan shall be established at the time the loan is awarded, with a minimum of two payments per year for the duration of the loan. Generally, loans of \$50,000 or less shall be repaid within a five-year period, and loans of more than \$50,000 shall be repaid within a ten-year period, although the fire marshal may allow variations for good cause. There will be no penalty for early payment. Each payment shall be by warrant, check, or money order made payable to Fire Service Training Bureau, Iowa Department of Public Safety, and shall be clearly marked "Repayment of Loan from Fire Fighting Equipment Revolving Loan Fund."

**55.207(3)** During any period when a loan is in default, there shall be a penalty of 1.5 percent of the remaining unpaid principal of the loan per month added to the amount of the loan.

These rules are intended to implement 2003 Iowa Acts, chapter 177, section 11.

[Filed Emergency 12/4/03, effective 1/1/04]

[Published 12/24/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/24/03.

**ARC 3041B****DENTAL EXAMINERS BOARD[650]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Dental Examiners hereby amends Chapter 10, "General Requirements," Iowa Administrative Code.

This amendment allows a dentist to provide public health supervision to a dental hygienist who is providing services within the scope of practice of dental hygiene in a public health setting. The amendment defines public health settings and details the responsibilities of each licensee operating under public health supervision.

Both the dentist and the dental hygienist working under public health supervision are responsible for maintaining contact and communication with each other. The dentist and the dental hygienist must also have a written supervision agreement that provides age- and procedure-specific standing orders for the performance of dental hygiene services. The standing orders must include consideration for medically compromised patients and medical conditions for which no services can be provided prior to a dental exam. The specific location where services will be provided must be specified. The agreement must also limit the length of time in which further hygiene services can be provided to a patient unless a dental exam has taken place.

The application of initial pit and fissure sealants by a dental hygienist under public health supervision prior to a dental exam shall also follow the supervising dentist's age- and procedure-specific protocols and be based on a dental hygiene assessment.

The dental hygienist must provide each patient, parent, or guardian a written plan for referral to a dentist. Patients must also sign a consent form that notifies the patient that the services that will be received do not take the place of regular dental checkups and are meant for people who otherwise would not have access to services. The supervision agreement must also specify a procedure for creating and maintaining dental records for patients, including where these records are to be located.

The dentist and dental hygienist must maintain the supervision agreement and review the agreement at least biennially. A copy of the agreement must be available to the Board upon request. To facilitate public health programs, a copy of the agreement must also be filed with the Oral Health Bureau of the Iowa Department of Public Health. The hygienist is also responsible for providing summary reports to the Department of Public Health to enable the Department to assess the impact of public health supervision on public health programs.

This amendment is subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 17, 2003, as **ARC 2783B**. A public hearing on the amendments was held on October 16, 2003. Numerous written and oral comments on the proposed amendments were received. The amendment is identical to that published under Notice.

This amendment was unanimously approved at a December 2, 2003, teleconference meeting of the Board of Dental Examiners.

This amendment is intended to implement Iowa Code chapter 153.

This amendment will become effective on January 28, 2004.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [10.5, 10.6] is being omitted. This amendment is identical to that published under Notice as **ARC 2783B**, IAB 9/17/03.

[Filed 12/4/03, effective 1/28/04]

[Published 12/24/03]

[For replacement pages for IAC, see IAC Supplement 12/24/03.]

**ARC 3026B****ECONOMIC DEVELOPMENT, IOWA  
DEPARTMENT OF[261]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts new Chapter 46, "Endow Iowa Grants Program," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 17, 2003, as **ARC 2753B**.

The rules implement the Endow Iowa Grants Program as authorized by 2003 Iowa Acts, First Extraordinary Session, House File 692. The rules establish application procedures, evaluation criteria, form of award, and the contractual and compliance components of the Program.

A public hearing to receive comments about the proposed rules was held on October 16, 2003. The following comments were received:

- The Director of the Greater Des Moines Foundation offered support for the rules as written, but encouraged the Department to be sensitive to the smaller donors and rural donors in the administration of the Program. The Director also suggested that a definition for "permanent endowment fund" be included in Chapter 46.

- The Director of the Community Vitality Center offered two suggestions: (1) that the rules incorporate a statement of guaranteed portability for affiliate community foundations that are required to make their deposits in the nationally certified foundations, and that those that are the affiliate groups receive some sort of guarantee that they would be allowed to make a change in depository affiliations should they choose to do so; and (2) that there be administrative rules to establish a point of ex-officio liaison from the Community Vitality Center that would work with the lead philanthropic board and attend the lead philanthropic board meetings.

Based on these comments, the following changes have been made:

- Grammatical changes and changes for the purpose of clarification have been made to the proposed rules.

- A definition for "permanent endowment fund" has been added.

The Iowa Department of Economic Development adopted these rules on November 20, 2003.

These rules are intended to implement 2003 Iowa Acts, First Extraordinary Session, House File 692, division VIII.

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

These rules will become effective on January 28, 2004.  
The following new chapter is adopted.

## CHAPTER 46

## ENDOW IOWA GRANTS PROGRAM

**261—46.1(80GA,HF692) Purpose.** The purpose of the endow Iowa grants program is to encourage individuals, businesses, and organizations to invest in community foundations and community affiliate organizations to enhance the quality of life for citizens of this state through increased philanthropic activity. This purpose will be met by providing capital to new and existing citizen groups of this state organized to establish permanent endowment funds that will address community needs.

**261—46.2(80GA,HF692) Definitions.**

“Act” means the endow Iowa program Act, 2003 Iowa Acts, First Extraordinary Session, House File 692, division VIII.

“Board” means the governing board of the lead philanthropic entity identified by the department pursuant to 2003 Iowa Acts, First Extraordinary Session, House File 692, section 91.

“Business” means an entity operating within the state and includes individuals operating a sole proprietorship or having rental, royalty, or farm income in this state and includes a consortium of businesses.

“Community affiliate organization” means a group of five or more community leaders or advocates organized for the purpose of increasing philanthropic activity in an identified community or geographic area in this state with the intention of establishing a community affiliate endowment fund.

“Department” or “IDED” means the Iowa department of economic development.

“Endowment gift” means an irrevocable contribution to a permanent endowment held by a qualified community foundation.

“Lead philanthropic entity” means the entity identified by the department pursuant to 2003 Iowa Acts, First Extraordinary Session, House File 692, section 91.

“Permanent endowment fund” means a fund held in a qualifying community foundation to provide benefit to charitable causes in the state of Iowa. Endowed funds are intended to exist in perpetuity, and to implement an annual spend rate not to exceed 5 percent.

“Qualified community foundation” means a community foundation organized or operating in this state that meets or exceeds the national standards established by the National Council on Foundations.

**261—46.3(80GA,HF692) Program procedures.** The department shall identify a lead philanthropic entity for purposes of encouraging the development of qualified community foundations in this state. A lead philanthropic entity may receive a grant from the department. The board shall use the grant moneys to award endow Iowa grants to new and existing qualified community foundations and to community affiliate organizations as follows:

**46.3(1)** Endow Iowa grants awarded to new and existing qualified community foundations and to community affiliate organizations shall not exceed \$25,000 per foundation or organization unless a foundation or organization demonstrates a multiple county or regional approach.

**46.3(2)** Endow Iowa grants may be awarded on an annual basis with not more than three grants going to a single county in a fiscal year.

**46.3(3)** Of any moneys received by a lead philanthropic entity from the state, not more than 5 percent of such moneys shall be used by the lead philanthropic entity for administrative purposes.

**46.3(4)** Lead philanthropic entity eligibility requirements. A lead philanthropic entity shall meet all of the following qualifications:

a. The entity shall be a nonprofit entity, which is exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

b. The entity shall be a statewide organization with membership consisting of organizations, such as community, corporate, and private foundations, whose principal function is the making of grants within the state of Iowa.

c. The entity shall have a minimum of 40 members, and that membership shall include qualified community foundations.

**261—46.4(80GA,HF692) Eligible applicants.** Eligible applicants for endow Iowa grants include new and existing qualified community foundations and community affiliate organizations. Endow Iowa grant funds may be awarded to qualified community foundations and community affiliate organizations that do all of the following:

1. Provide the board with all information required by the board.

2. Demonstrate a dollar-for-dollar funding match in a form approved by the board.

3. Identify a qualified community foundation to hold all funds. A qualified community foundation shall not be required to meet this requirement.

4. Provide a plan to the board demonstrating the method for distributing grant moneys received from the board to organizations within the community or geographic area as defined by the qualified community foundation or the community affiliate organization.

**261—46.5(80GA,HF692) Application and review criteria.** The lead philanthropic entity shall develop and make available a standardized application pertaining to the distribution of endow Iowa grants. Subject to the availability of funds, applications will be reviewed on an ongoing basis and reviewed at least quarterly by the board. In ranking applications for grants, the board shall consider a variety of factors including, but not limited to, the following:

1. The demonstrated need for financial assistance.

2. The potential for future philanthropic activity in the area represented or being considered for assistance.

3. The proportion of the funding match being provided.

4. For community affiliate organizations, the demonstrated need for the creation of a community affiliate endowment fund in the applicant's geographic area.

5. The identification of community needs and the manner in which additional funding will address those needs.

6. The geographic diversity of awards.

**261—46.6(80GA,HF692) Reporting requirements.** By January 31 of each year, pursuant to 2003 Iowa Acts, First Extraordinary Session, House File 692, division VIII, the lead philanthropic entity, in cooperation with the department, shall publish an annual report of the activities conducted during the previous calendar year and shall submit the report to the governor and general assembly. The annual report shall include a detailed listing of endow Iowa grant funds awarded by the lead philanthropic entity and the amount of endow Iowa tax credits authorized by the department.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

These rules are intended to implement 2003 Iowa Acts, First Extraordinary Session, House File 692, sections 88 to 93.

[Filed 11/20/03, effective 1/28/04]

[Published 12/24/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/24/03.

## ARC 3027B

# ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

### Adopted and Filed

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts new Chapter 47, "Endow Iowa Tax Credits," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 1, 2003, as **ARC 2797B**.

The rules implement the Endow Iowa Tax Credits Program as authorized by 2003 Iowa Acts, First Extraordinary Session, House File 683. The rules establish application procedures, evaluation criteria, form of award, and the contractual and compliance components of the program.

A public hearing to receive comments about the rules was held on October 24, 2003. The following comments were received:

- The Director of the Community Vitality Center offered support for subrule 47.4(2). The Director of the Community Vitality Center suggested that 50 percent of the awarded tax credits be reserved for those counties designated as nonmetropolitan to help ensure urban-rural equity.

- The Director of the Greater Des Moines Foundation and Chairman of the Iowa Council of Foundations offered support for the rules as written, but encouraged the Department to be sensitive to the smaller donors and rural donors in the administration of the program. The Director also encouraged the Department to provide clear communication as to the start date of the Endow Iowa Tax Credits Program and expressed concern about the applicability dates set forth in the rules.

Based on these comments, minor changes have been made for clarification in subrules 47.3(2) and 47.3(7).

The Iowa Department of Economic Development adopted these rules on November 20, 2003.

These rules are intended to implement 2003 Iowa Acts, First Extraordinary Session, House File 683, sections 83 to 89.

These rules will become effective on January 28, 2004.

The following new chapter is adopted.

### CHAPTER 47

### ENDOW IOWA TAX CREDITS

**261—47.1(80GA,HF683) Purpose.** The purpose of endow Iowa tax credits is to encourage individuals, businesses, and organizations to invest in community foundations and to enhance the quality of life for citizens of this state through increased philanthropic activity.

**261—47.2(80GA,HF683) Definitions.**

"Act" means 2003 Iowa Acts, First Extraordinary Session, House File 683.

"Department" or "IDED" means the Iowa department of economic development.

"Endowment gift" means an irrevocable contribution to a permanent endowment held by a qualified community foundation.

"Permanent endowment fund" means a fund held in a qualifying community foundation to provide benefit to charitable causes in the state of Iowa. Endowed funds are intended to exist in perpetuity, and to implement an annual spend rate not to exceed 5 percent.

"Qualified community foundation" means a community foundation organized or operating in this state that meets or exceeds the national standards established by the National Council on Foundations.

"Tax credit" means the amount an individual may claim against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.24.

**261—47.3(80GA,HF683) Allocation of funds.** The department shall authorize tax credits to qualified individuals who provide an endowment gift to a qualified community foundation for a permanent endowment fund within the state of Iowa in accordance with the following provisions:

**47.3(1)** Approved tax credits shall be allowed against taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.24.

**47.3(2)** Approved tax credits will be equal to 20 percent of a taxpayer's gift to a permanent endowment held in a qualified community foundation.

**47.3(3)** The aggregate amount of tax credits authorized pursuant to this rule shall not exceed an aggregate total of \$2 million. The maximum amount of tax credits granted to a single taxpayer shall not exceed 5 percent of the aggregate amount of tax credits authorized. If the department receives applications for tax credits in excess of the aggregate amount available, the applications shall be prioritized by the date the department received the applications.

**47.3(4)** Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever occurs first.

**47.3(5)** A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

**47.3(6)** A tax credit shall not be transferable to any other taxpayer.

**47.3(7)** Tax credits shall be authorized pursuant to this rule for gifts made to a permanent endowment held in a qualified community foundation after January 1, 2003, and before December 31, 2005.

**261—47.4(80GA,HF683) Distribution process and review criteria.** The department shall develop and make available a standardized application pertaining to the distribution of endow Iowa tax credits.

**47.4(1)** Ten percent of the aggregate amount available for tax credits shall be reserved for those permanent endowment gifts corresponding to the endow Iowa grants program. If by September 1, 2005, the entire 10 percent reserved for permanent endowment gifts corresponding to the endow Iowa grants program is not allocated, the amount remaining shall be available for other applicants.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

**47.4(2)** Ten percent of the aggregate amount available for tax credits shall be reserved for those permanent endowment gifts totaling \$30,000 or less. If by September 1, 2005, the entire 10 percent reserved for permanent endowment gifts totaling \$30,000 or less is not allocated, the amount remaining shall be available for other applicants.

**47.4(3)** Applications will be accepted on an ongoing basis. The department will make public by June 1 and December 1 of each calendar year the total number of requests for tax credits and the total amount of requested tax credits that have been submitted. The department will review these requests and issue tax credits within a reasonable period of time following the June 1 and December 1 announcements.

**261—47.5(80GA,HF683) Reporting requirements.** By January 31 of each calendar year, the department shall publish an annual report of the activities conducted pursuant to these rules during the previous calendar year and shall submit the report to the governor and general assembly. The annual report shall include a detailed listing of endow Iowa tax credits authorized by the department.

These rules are intended to implement 2003 Iowa Acts, First Extraordinary Session, House File 683, sections 83 to 89.

[Filed 11/20/03, effective 1/28/04]

[Published 12/24/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/24/03.

## ARC 3040B

### MANAGEMENT DEPARTMENT[541]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 8.6 and 2003 Iowa Acts, chapter 178, section 27, the Department of Management adopts Chapter 15, "Local Government Innovation Fund Committee," Iowa Administrative Code.

These rules establish the procedures used by the Local Government Innovation Fund Committee for application review and grant and loan awards and ensure that the proceedings of the Committee are conducted in an orderly manner.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 15, 2003, as **ARC 2872B**. No public comment was received on the rules. These rules are identical to the rules published under Notice of Intended Action.

These rules are intended to implement Iowa Code section 8.6 and 2003 Iowa Acts, chapter 178, section 27.

These rules will become effective January 28, 2004.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 15] is being omitted. These rules are identical to those published under Notice as **ARC 2872B**, IAB 10/15/03.

[Filed 12/4/03, effective 1/28/04]

[Published 12/24/03]

[For replacement pages for IAC, see IAC Supplement 12/24/03.]

## ARC 3044B

### MEDICAL EXAMINERS BOARD[653]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medical Examiners hereby amends Chapter 10, "Resident, Special and Temporary Physician Licensure," Iowa Administrative Code.

The amendments change the word "foreign" in the phrase "foreign medical school" to the word "international," and change the name of the publisher of the Directory of Medical Schools from "World Health Organization" to "International Medical Education Directory." In addition, an amendment clarifies the Board's position on board-approved resident training programs in Iowa.

The amendments were published under Notice of Intended Action as **ARC 2870B** in the October 15, 2003, Iowa Administrative Bulletin. No written or oral comments were received. These amendments are identical to those published under Notice.

The Board adopted the amendments to Chapter 10 during its regularly held meeting on November 20, 2003.

These amendments are intended to implement Iowa Code chapters 148 and 272C.

These amendments will become effective January 28, 2004.

The following amendments are adopted.

ITEM 1. Amend rule **653—10.1(147,148,150,150A)**, definitions of "ECFMG" and "medical degree," as follows:

"ECFMG" means the Educational Commission for Foreign Medical Graduates, an organization that assesses the readiness of ~~foreign~~ *international* medical school graduates to enter ACGME-approved residency programs in the United States of America.

"Medical degree" means a degree of doctor of medicine and surgery, osteopathic medicine and surgery, or osteopathy, or comparable education from a ~~foreign~~ *an international* medical school.

ITEM 2. Amend subrule **10.3(1)**, paragraph "**a**," as follows:

a. The resident physician license shall authorize the licensee to practice as an intern, resident or fellow while under the supervision of a licensed practitioner of medicine and surgery or osteopathic medicine and surgery in a board-approved resident training program in Iowa. When the ACGME, AOA, RCPSC, or CFPC fails to offer accreditation for a fellowship or the fellowship fails to seek accreditation, the board ~~may approve a training program for purposes of resident physician licensure~~ *shall approve the program if the parent program is accredited by one of the aforementioned accrediting bodies*. However, completion of one or more years of a program that *itself* lacks such accreditation does not fulfill the one-year resident training requirement for permanent licensure.

ITEM 3. Amend subrule **10.4(2)**, paragraph "**d**," as follows:

d. Present evidence of holding a medical degree from an educational institution that is located in a jurisdiction outside the United States or Canada and that is listed in the Directory of Medical Schools published by the ~~World Health Organization~~ *International Medical Education Directory*;

## MEDICAL EXAMINERS BOARD[653](cont'd)

ITEM 4. Amend subrule **10.5(2)**, paragraph “**b**,” subparagraph **(3)**, as follows:

(3) Present evidence of holding a medical degree from an educational institution located in a jurisdiction outside the United States or Canada and listed in the Directory of Medical Schools published by the ~~World Health Organization International Medical Education Directory~~;

[Filed 12/4/03, effective 1/28/04]

[Published 12/24/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/24/03.

**ARC 3045B****MEDICAL EXAMINERS  
BOARD[653]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Medical Examiners hereby amends Chapter 13, “Standards of Practice,” and rescinds Chapter 18, “Principles of Professional Ethics,” Iowa Administrative Code.

The amendments retitle Chapter 13 and establish new standards of practice and principles of medical ethics therein. The new standards of practice address office practice, including termination of the physician-patient relationship, patient referrals, confidentiality, sexual conduct, disruptive behavior, sexual harassment, transfer of medical records, and retention of medical records. The waiver rule is moved to the end of the chapter. Principles of medical ethics, originally included in Chapter 18, are now added to Chapter 13, with reference to ethics documents of the American Medical Association and the American Osteopathic Association, and include provisions on conflict of interest and reasonable fees.

Notice of Intended Action regarding these amendments was published in the August 20, 2003, Iowa Administrative Bulletin as **ARC 2707B**. These amendments were changed as a result of public comment received at the public hearing held on September 9, 2003. The changes are as follows:

- Subrule 13.7(1) was reworded to state that a physician must ensure that emergency medical care is available to a patient during the 30-day period following notice of termination of the physician-patient relationship.
- Subrule 13.7(3) was revised to clarify that information shall be divulged by the physician when authorized by law rather than when required by law.
- In subrule 13.7(7), the words “or permitted” were added to clarify that an exception to the transfer of medical records occurs when permitted by law, in addition to when required by law. Also, the fee schedule established for the transfer of medical records was removed.
- In paragraph 13.7(8)“b,” retention of medical records for minor patients is now established by reference to Iowa Code section 614.8.
- Subrule 13.20(1) was revised so that conflict of interest is addressed in general terms and specific types of conflicts of interest are eliminated.

The Board adopted these amendments on November 20, 2003.

These amendments will become effective on January 28, 2004.

These amendments are intended to implement Iowa Code chapters 147, 148, and 150.

The following amendments are adopted.

ITEM 1. Amend **653—Chapter 13**, title, as follows:

CHAPTER 13  
STANDARDS OF PRACTICE AND PRINCIPLES  
OF MEDICAL ETHICS

ITEM 2. Adopt the following new rule:

**653—13.7(147,148,272C) Standards of practice—office practices.**

**13.7(1)** Termination of the physician-patient relationship. A physician may choose whom to serve. Having undertaken the care of a patient, the physician may not neglect the patient. A physician shall provide a patient written notice of the termination of the physician-patient relationship. A physician shall ensure that emergency medical care is available to the patient during the 30-day period following notice of the termination of the physician-patient relationship.

**13.7(2)** Patient referrals. A physician shall not pay or receive compensation for patient referrals.

**13.7(3)** Confidentiality. A physician shall maintain the confidentiality of all patient information obtained in the practice of medicine. Information shall be divulged by the physician when authorized by law or the patient or when required for patient care.

**13.7(4)** Sexual conduct. It is unprofessional and unethical conduct, and is grounds for disciplinary action, for a physician to engage in conduct which violates the following prohibitions:

a. In the course of providing medical care, a physician shall not engage in contact, touching, or comments of a sexual nature with a patient, or with the patient's parent or guardian if the patient is a minor.

b. A physician shall not engage in any sexual conduct with a patient when that conduct occurs concurrent with the physician-patient relationship, regardless of whether the patient consents to that conduct.

c. A physician shall not engage in any sexual conduct with a former patient unless the physician-patient relationship was completely terminated before the sexual conduct occurred. In considering whether that relationship was completely terminated, the board will consider the duration of the physician-patient relationship, the nature of the medical services provided, the lapse of time since the physician-patient relationship ended, the degree of dependence in the physician-patient relationship, and the extent to which the physician used or exploited the trust, knowledge, emotions, or influence derived from the physician-patient relationship.

d. A psychiatrist, or a physician who provides mental health counseling to a patient, shall never engage in any sexual conduct with a current or former patient, or with that patient's parent or guardian if the patient was a minor, regardless of whether the patient consents to that conduct.

**13.7(5)** Disruptive behavior. A physician shall not engage in disruptive behavior. Disruptive behavior is defined as a pattern of contentious, threatening, or intractable behavior that interferes with, or has the potential to interfere with, patient care or the effective functioning of health care staff.

**13.7(6)** Sexual harassment. A physician shall not engage in sexual harassment. Sexual harassment is defined as verbal or physical conduct of a sexual nature which interferes with another health care worker's performance or creates an intimidating, hostile or offensive work environment.

**13.7(7)** Transfer of medical records. A physician must provide a copy of all medical records generated by the physician in a timely manner to the patient or another physician

## MEDICAL EXAMINERS BOARD[653](cont'd)

designated by the patient, upon written request when legally requested to do so by the subject patient or by a legally designated representative of the subject patient, except as otherwise required or permitted by law.

**13.7(8)** Retention of medical records. The following paragraphs become effective on January 1, 2004.

a. A physician shall retain all medical records, not appropriately transferred to another physician or entity, for at least seven years from the last date of service for each patient, except as otherwise required by law.

b. A physician must retain all medical records of minor patients, not appropriately transferred to another physician or entity, for a period consistent with that established by Iowa Code section 614.8.

c. Upon a physician's death or retirement, the sale of a medical practice or a physician's departure from the physician's medical practice:

(1) The physician or the physician's representative must ensure that all medical records are transferred to another physician or entity that is held to the same standards of confidentiality and agrees to act as custodian of the records.

(2) The physician shall notify all active patients that their records will be transferred to another physician or entity that will retain custody of their records and that, at their written request, the records will be sent to the physician or entity of the patient's choice.

ITEM 3. Renumber rule **653—13.10(17A,147,148,272C)** as **653—13.21(17A,147,148,272C)**.

ITEM 4. Adopt the following **new** rule:

**653—13.20(147,148,150) Principles of medical ethics.** The Code of Medical Ethics (2002-2003) prepared and approved by the American Medical Association and the Code of Ethics (2002-2003) prepared and approved by the American Osteopathic Association shall be utilized by the board as guiding principles in the practice of medicine and surgery, osteopathic medicine and surgery and osteopathy in this state.

**13.20(1)** Conflict of interest. A physician should not provide medical services under terms or conditions which tend to interfere with or impair the free and complete exercise of the physician's medical judgment and skill or tend to cause a deterioration of the quality of medical care.

**13.20(2)** Fees. Any fee charged by a physician shall be reasonable.

ITEM 5. Rescind **653—Chapter 18**.

[Filed 12/4/03, effective 1/28/04]

[Published 12/24/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/24/03.

## ARC 3042B

### MEDICAL EXAMINERS BOARD[653]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3 and chapter 148, the Board of Medical Examiners hereby amends Chapter 21, "Physician Eligibility to Supervise a Physician Assistant," Iowa Administrative Code.

The amendments change the chapter title to eliminate "eligibility," address when a physician is ineligible to supervise, provide exemptions from the chapter, establish how a physician notifies the Board when supervising a physician assistant, and identify the grounds for discipline in accordance with 2003 Iowa Acts, chapter 93, and prior contested cases.

Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on August 20, 2003, as **ARC 2705B**. No one attended the public hearing held on September 9, 2003. However, written comments were received and, as a result, the following changes from the Notice of Intended Action have been made:

- A general statement from the current rules was added to renumbered rule 653—21.1(148,272C) to explain that a physician with an active permanent, special, or temporary Iowa license who is actively engaged in the practice of medicine in Iowa may supervise a physician assistant. In addition, a sentence was added to clarify that a physician with a restricted license may supervise a physician assistant to the extent that the order allows.

- A cross reference to 645—Chapter 327 was added to rule 653—21.4(148,272C).

- New rule 653—21.7(17A,147,148,272C) that references the Board's waiver and variance rules was added.

The Board adopted the amendments to Chapter 21 during a regularly scheduled Board meeting on November 20, 2003.

These amendments will become effective January 28, 2004.

These amendments are intended to implement Iowa Code chapter 148 as amended by 2003 Iowa Acts, chapter 93, and Iowa Code section 272C.3.

The following amendments are adopted.

ITEM 1. Amend **653—Chapter 21**, title, as follows:

#### CHAPTER 21 PHYSICIAN ELIGIBILITY TO SUPERVISE SUPERVISION OF A PHYSICIAN ASSISTANT

ITEM 2. Rescind rule **653—21.1(148,272C)** and amend rule 653—21.2(148,272C) as follows:

**653—21.2 I(148,272C) Ineligibility determinants.** *A physician with an active permanent, special, or temporary Iowa license who is actively engaged in the practice of medicine in Iowa may supervise a physician assistant. A physician is ineligible to supervise a physician assistant for any of the following reasons:*

**21.2 I(1)** The physician does not hold an active, permanent, special or temporary Iowa medical license.

**21.2(2)** The physician is not actively practicing medicine in Iowa.

**21.2(3)** The physician does not have sufficient training or experience to supervise a physician assistant in the area of medical practice in which a physician assistant is to be utilized.

**21.2(4) I(2)** The physician is subject to a disciplinary order of the board that restricts or rescinds the physician from supervising physician's authority to supervise a physician assistant. *The physician may supervise a physician assistant to the extent that the order allows.*

ITEM 3. Adopt **new** rule 653—21.2(148,272C) as follows:

MEDICAL EXAMINERS BOARD[653](cont'd)

**653—21.2(148,272C) Exemptions from this chapter.** This chapter shall not apply to the following:

**21.2(1)** A physician working in a federal facility or under federal authority when the provisions of this chapter conflict with federal regulations.

**21.2(2)** A physician who supervises a physician assistant providing medical care created by an emergency or a state or local disaster pursuant to Iowa Code section 148C.4 as amended by 2003 Iowa Acts, chapter 93, section 10.

ITEM 4. Rescind rule 653—21.3(148,272C) and insert in lieu thereof the following new rule:

**653—21.3(148) Board notification.** A physician who supervises a physician assistant shall notify the board of the supervisory relationship at the time of the physician's license renewal.

ITEM 5. Amend rule 653—21.4(148,272C) as follows:

**653—21.4(148,272C) Grounds for discipline.** A physician may be subject to disciplinary action for supervising a physician assistant in violation of these rules or the rules found in 653—Chapter 12 or 645—~~Chapter 325~~ *Chapters 326 and 327*, which relate to duties and responsibilities for physician supervision of physician assistants. *Grounds for discipline also include:*

**21.4(1)** *The physician supervises a physician assistant when the physician is not actively practicing medicine with patients in Iowa. Part-time, voluntary practice with patients in a free clinic in Iowa qualifies as actively practicing medicine in Iowa.*

**21.4(2)** *The physician supervises a physician assistant when the physician does not have sufficient training or experience to supervise a physician assistant in the area of medical practice in which a physician assistant is to be utilized.*

**21.4(3)** *A physician supervises more than two physician assistants at the same time.*

**21.4(4)** *The physician fails to ensure that the physician assistant is adequately supervised, including being available in person or by telecommunication to respond to the physician assistant.*

ITEM 6. Amend rule 653—21.5(148,272C) as follows:

**653—21.5(148,272C) Disciplinary sanction.** The board may restrict or rescind a physician's authority to supervise a physician assistant as part of a disciplinary sanction following a contested case proceeding, if the reason for the disciplinary action impacts the ability of the physician to supervise a physician assistant. The board shall notify the board of physician assistant examiners when it takes a disciplinary action against a physician's license that affects the physician's *eligibility authority* to supervise a physician assistant.

ITEM 7. Adopt the following new rule:

**653—21.7(17A,147,148,272C) Waiver or variance requests.** Waiver or variance requests shall be submitted in conformance with 653—Chapter 3.

[Filed 12/4/03, effective 1/28/04]

[Published 12/24/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/24/03.

## ARC 3055B

### NURSING BOARD[655]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby amends Chapter 2, "Nursing Education Programs," Iowa Administrative Code.

This amendment eliminates the requirement to notify the Board of the rearrangement of the sequence of courses. The rule changes encourage the implementation of innovative curriculum changes and increase options for students. The rule changes also consolidate three sections of required Board reports into one section.

This amendment was published in the Iowa Administrative Bulletin on October 1, 2003, as **ARC 2829B**. This amendment is identical to that published under Notice.

This amendment will become effective January 28, 2004.

This amendment is intended to implement Iowa Code chapter 152.

The following amendment is adopted.

Rescind subrule 2.11(3) and adopt in lieu thereof the following new subrule:

**2.11(3)** Changes requiring board approval and notification. The program shall submit nine copies of a proposed change for board approval at least three weeks prior to the next scheduled board meeting when the outcome will:

a. Lengthen or shorten the course of study.

b. Add or delete academic credit in a course required for graduation.

c. Add or delete a course required for graduation.

d. Alter graduation requirements.

e. Reduce the human, physical or learning resources provided by the controlling institution to meet program needs as described in rule 2.4(152).

f. Substantively alter the philosophy/mission of the program.

g. Revise the predominant method of instruction or delivery, including transition from on-site to self-study or distance learning.

h. Entail delivery of a cooperative program of study with an institution that does not provide a degree in nursing.

[Filed 12/5/03, effective 1/28/04]

[Published 12/24/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/24/03.

## ARC 3056B

### NURSING BOARD[655]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby amends Chapter 3, "Licensure to Practice—Registered Nurse/Licensed Practical Nurse," Iowa Administrative Code.

This amendment establishes the ARNP registration fee as a set amount and eliminates the fee that changes based on length of the registration.



NURSING BOARD[655](cont'd)

This amendment was published in the Iowa Administrative Bulletin on October 1, 2003, as **ARC 2828B**. This amendment is identical to that published under Notice.

This amendment will become effective January 28, 2004.

This amendment is intended to implement Iowa Code chapters 147 and 152.

The following amendment is adopted.

Amend rule **655—3.1(17A,147,152,272C)**, definition of “fees,” numbered paragraph **4**, to read as follows:

4. Application for registration as an advanced registered nurse practitioner, \$27 ~~81~~ per year, ~~or any portion of a year for any length of registration up to three years.~~

[Filed 12/5/03, effective 1/28/04]

[Published 12/24/03]

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## ARC 3039B

### PROFESSIONAL LICENSURE DIVISION[645]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Physical and Occupational Therapy Examiners hereby rennumbers Chapter 200, “Administrative and Regulatory Authority for the Board of Physical and Occupational Therapy Examiners—Physical Therapy Examiners,” as Chapter 199, and Chapter 201, “Licensure of Physical Therapists and Physical Therapist Assistants,” as Chapter 200, and amends renumbered Chapters 199 and 200; adopts new Chapter 201, “Practice of Physical Therapists and Physical Therapist Assistants”; rescinds Chapter 202, “Discipline,” and adopts new Chapter 202, “Discipline for Physical Therapists and Physical Therapist Assistants”; and amends Chapter 204, “Fees,” Iowa Administrative Code.

These amendments adopt new subrules for the conduct of persons who attend public meetings, requirements for notifying the Board of name and address changes, and criteria for obtaining a duplicate or reissued license. The educational requirements are amended to be consistent with other states’ requirements for physical therapist applicants. Licensees who regularly examine, attend, counsel or treat adults or children are required to document at the time of renewal that they have completed the mandatory training on abuse identification and reporting. These amendments adopt new practice and discipline chapters.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 17, 2003, as **ARC 2745B**. A public hearing was held on October 9, 2003, from 9 to 11 a.m. in the Professional Licensure Conference Room, Fifth Floor, Lucas State Office Building, Des Moines, Iowa. The Board received comments from the Iowa Physical Therapy Association (IPTA), and Board members also had additional comments: IPTA wanted the catchwords of subrule 200.9(4) to be changed to more accurately reflect what is required in the subrule. IPTA stated that the language in paragraphs “a” to “c” of 200.9(4) was too broad and asked that language be added to clarify that the requirements are related to activities that are within the scope of professional practice. In addition, IPTA asked that paragraph 201.1(2)“b” be changed to reflect that physical therapists are independent

practitioners and asked that subrule 201.2(5) be changed to indicate that patient records will be released upon written authorization from the patient. The Board requested that paragraphs 200.3(1)“c” and “d” be reworded to clarify when time periods start and to clarify that the person may also implement the treatment plan.

The following changes were made in response to public comment:

- In subrule 200.3(1), paragraph “c” was reworded to clarify when the time periods for on-site supervision of an applicant begin, and paragraph “d” was reworded to clarify that an applicant may implement treatment programs. Paragraphs “c” and “d” now read as follows:

“c. Shall practice only under the on-site supervision of a licensed physical therapist(s) for a period not to exceed six months from the date the application was received in the board office for licensure by examination or three months from the date the application was received in the board office for licensure by endorsement. The supervising physical therapist shall bear full responsibility for care provided by the applicant;

“d. May evaluate, plan and implement treatment programs, and provide periodic reevaluation;”

- The catchwords of subrule 200.9(4) were changed to read as follows: “Mandatory reporter training requirements.”

- The words “in the scope of professional practice” were added to paragraphs “a” to “c” of subrule 200.9(4). The paragraphs now read as follows:

“a. A licensee who in the scope of professional practice regularly examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph ‘e.’

“b. A licensee who in the scope of professional practice regularly examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph ‘e.’

“c. A licensee who in the scope of professional practice regularly examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph ‘e.’

“Training may be completed through separate courses as identified in paragraphs ‘a’ and ‘b’ or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.”

- The word “a” was substituted for “the” in paragraph 201.1(2)“b” to more accurately reflect that physical therapists are independent practitioners. The paragraph now reads as follows:

“b. Inform a referring practitioner when any requested treatment procedure is inadvisable or contraindicated and shall refuse to carry out such orders;”

- Subrule 201.2(5) was reworded to clarify that patient records will be released upon receipt of a written release or authorization signed by the patient, consistent with other rules and regulations. Subrule 201.2(5) now reads as follows:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**“201.2(5) Confidentiality and transfer of records.** Physical therapists and physical therapist assistants shall preserve the confidentiality of patient records. Upon receipt of a written release or authorization signed by the patient, the licensee shall furnish such physical therapy records, or copies of the records, as will be beneficial for the future treatment of that patient. A fee may be charged for duplication of records, but a licensee may not refuse to transfer records for nonpayment of any fees. A written request may be required before transferring the record(s).”

- In addition, the words “or client” were added to 201.1(3)“e” and “f” to clarify that sexual misconduct with or physical or verbal abuse of a patient or client is prohibited.

These amendments were adopted by the Board of Physical and Occupational Therapy Examiners on November 21, 2003.

These amendments will become effective January 28, 2004.

These amendments are intended to implement Iowa Code chapters 21, 147, 148A and 272C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 199, 200; adopt Chs 201, 202; 204.1(6) to 204.1(10)] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 2745B**, IAB 9/17/03.

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[For replacement pages for IAC, see IAC Supplement 12/24/03.]

**ARC 3038B****PROFESSIONAL LICENSURE  
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Physical and Occupational Therapy Examiners hereby amends Chapter 205, “Administrative and Regulatory Authority for the Board of Physical and Occupational Therapy Examiners—Occupational Therapy Examiners”; amends Chapter 206, “Licensure of Occupational Therapists and Occupational Therapy Assistants”; rescinds Chapter 208, “Discipline for Occupational Therapists and Occupational Therapy Assistants,” and adopts new Chapter 208, “Practice of Occupational Therapists and Occupational Therapy Assistants”; and renumbers Chapter 209, “Fees,” as Chapter 210, adopts new Chapter 209, “Discipline for Occupational Therapists and Occupational Therapy Assistants,” and amends renumbered Chapter 210, “Fees,” Iowa Administrative Code.

These amendments adopt new subrules for the conduct of persons who attend public meetings, requirements for notifying the Board of name and address changes, and criteria for obtaining a duplicate or reissued license. Licensees who regularly examine, attend, counsel or treat adults or children are required to document at the time of renewal that they have completed the mandatory training on abuse identification and reporting. These amendments also amend supervisory

requirements, adopt a definition for “occupational therapy screening,” and adopt new practice and discipline chapters.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 17, 2003, as **ARC 2746B**. A public hearing was held on October 9, 2003, from 9 to 11 a.m. in the Professional Licensure Conference Room, Fifth Floor, Lucas State Office Building, Des Moines, Iowa. No public comments were received regarding occupational therapy rules. However, the Board reviewed comments received from the Iowa Physical Therapy Association (IPTA) regarding physical therapy rules (see **ARC 3039B** published herein) and agreed that IPTA’s suggested changes should also apply to occupational therapy rules. Consequently, the following changes from the Notice have been made:

- The catchwords of subrule 206.12(4) were changed to read as follows: “Mandatory reporter training requirements.”

- The words “in the scope of professional practice” were added to paragraphs 206.12(4)“a” to “c.” The paragraphs now read as follows:

“a. A licensee who in the scope of professional practice regularly examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph ‘e.’

“b. A licensee who in the scope of professional practice regularly examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph ‘e.’

“c. A licensee who in the scope of professional practice regularly examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph ‘e.’

“Training may be completed through separate courses as identified in paragraphs ‘a’ and ‘b’ or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.”

- The word “a” was substituted for “the” in paragraph 208.1(2)“b” to more accurately reflect that occupational therapists are independent practitioners. The paragraph now reads as follows:

“b. Inform a referring practitioner when any requested treatment procedure is inadvisable or contraindicated and shall refuse to carry out such orders;”

- The words “or client” were added to paragraphs 208.1(3)“f” and “g” to clarify that sexual misconduct with or physical or verbal abuse of a patient or client is prohibited.

- Subrule 208.2(5) was reworded to clarify that patient records will be released upon receipt of a written release or authorization signed by the patient. Subrule 208.2(5) now reads as follows:

**“208.2(5) Confidentiality and transfer of records.** Occupational therapists and occupational therapy assistants shall preserve the confidentiality of patient records. Upon receipt of a written release or authorization signed by the patient, the licensee shall furnish such occupational therapy records, or copies of the records, as will be beneficial for the future treatment of that patient. A fee may be charged for duplication of

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

records, but a licensee may not refuse to transfer records for nonpayment of any fees. A written request may be required before transferring the record(s)."

These amendments were adopted by the Board of Physical and Occupational Therapy Examiners on November 21, 2003.

These amendments will become effective January 28, 2004.

These amendments are intended to implement Iowa Code chapters 21, 147, 148B and 272C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 205, 206, 210; adopt Ch 209] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 2746B**, IAB 9/17/03.

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[For replacement pages for IAC, see IAC Supplement 12/24/03.]

**ARC 3058B****REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 42, "Adjustments to Computed Tax," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," and Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXVI, No. 8, p. 700, on October 15, 2003, as **ARC 2877B**.

Item 1 amends subrule 42.18(1) to provide that an individual taxed on income from a revocable trust can qualify for the tax credit provided for an investment in a qualifying business.

Item 2 adopts new subrule 42.18(3) to provide for contingent tax credits for individual income tax relating to investments in the Iowa fund of funds organized by the Iowa Capital Investment Corporation.

Item 3 adopts new subrule 52.21(3) to provide for contingent tax credits for corporation income tax relating to investments in the Iowa fund of funds organized by the Iowa Capital Investment Corporation. This change is similar to the one in Item 2.

Item 4 adopts new subrule 58.11(3) to provide for contingent tax credits for franchise tax relating to investments in the Iowa fund of funds organized by the Iowa Capital Investment Corporation. This change is similar to the one in Item 2.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective January 28, 2004, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapter 15E as amended by 2002 Iowa Acts, chapter 1005, and by 2003 Iowa Acts, chapter 179.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [42.18, 52.21, 58.11] is being omitted. These amendments are identical to those published under Notice as **ARC 2877B**, IAB 10/15/03.

[Filed 12/5/03, effective 1/28/04]  
[Published 12/24/03]

[For replacement pages for IAC, see IAC Supplement 12/24/03.]

**ARC 3057B****REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.114 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 42, "Adjustments to Computed Tax," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," and Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXVI, No. 8, p. 701, on October 15, 2003, as **ARC 2876B**.

Item 1 adopts new rule 42.20(15E), which provides for an Endow Iowa tax credit for individual income tax for endowment gifts to a qualified community foundation. This credit is administered by the Iowa Department of Economic Development.

Item 2 adopts new rule 52.23(15E), which provides for an Endow Iowa tax credit for corporation income tax for endowment gifts to a qualified community foundation. This change is similar to the one in Item 1.

Item 3 adopts new rule 58.13(15E), which provides for an Endow Iowa tax credit for franchise tax for endowment gifts to a qualified community foundation. This change is similar to the one in Item 1.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective January 28, 2004, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapter 15E as amended by 2003 Iowa Acts, First Extraordinary Session, chapter 2.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [42.20, 52.23, 58.13] is being omitted. These amendments are identical to those published under Notice as **ARC 2876B**, IAB 10/15/03.

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[Published 12/24/03]

[For replacement pages for IAC, see IAC Supplement 12/24/03.]

## ARC 3059B

### REVENUE DEPARTMENT[701]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14, 421.17(2), and 438.10, the Department of Revenue hereby adopts amendments to Chapter 77, "Determination of Value of Utility Companies," Iowa Administrative Code.

The amendments make changes in the stock and debt, income, and cost approaches to value that are used by the Department in establishing utility company assessments for property tax purposes. The amendments remove references to the valuation of electric and gas companies.

Notice of Intended Action was published in IAB Vol. XXVI, No. 9, p. 767, on October 29, 2003, as **ARC 2908B**.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective January 28, 2004, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapters 428, 433, 437, and 438 and section 476.1D(10).

The following amendments are adopted.

ITEM 1. Amend subrule 77.1(1) as follows:

**77.1(1)** The term "utility company" shall mean and include all persons engaged in the operating of gasworks, waterworks, telephones, including telecommunication companies and cities that own or operate a municipal utility providing local exchange services pursuant to Iowa Code chapter 476, pipelines, electric transmission lines, and electric light or power plants, as set forth in Iowa Code chapters 428, 433, 437, and 438. *Any utility company subject to taxation under Iowa Code chapter 437A shall not be subject to valuation under this chapter.*

ITEM 2. Amend rule 701—77.1(428,433,437,438) by adding the following new subrule:

**77.1(13)** The term "replacement cost new less depreciation" or "RCNLD" shall mean the cost to the present owner of acquiring or constructing at current prices a property that is the functional equivalent of an existing property less an allowance for depreciation.

ITEM 3. Amend rule **701—77.1(428,433,437,438)**, implementation clause, as follows:

This rule is intended to implement Iowa Code chapters 428, 437, and 438; ~~section and sections 433.12 as amended by 1999 Iowa Acts, chapter 63; and Iowa Code section 476.1D(10).~~

ITEM 4. Amend subrule **77.4(4)** by relettering paragraphs "g" to "i" as "h" to "j" and adopting the following new paragraph "g":

g. The income determined in 77.4(4), paragraph "a," for pipeline companies shall be further reduced by deducting the current year net adjustment expense for investment tax credits.

ITEM 5. Amend subrule 77.4(6) as follows:

**77.4(6)** In the event the utility company has other sources of capital, such as (by way of illustration and not limitation) current liabilities, ~~accumulated deferred income taxes~~ and accumulated investment tax credits which cannot be identified as having been utilized to purchase specific assets, the market value of such sources of capital shall be allocated be-

tween operating and nonoperating assets in the same manner as long-term debt or preferred stock (see subrules 77.4(2) and 77.4(3)). *Accumulated deferred income taxes are not included in this adjustment. The book value for accumulated deferred income taxes should be removed from the stock and debt approach before making this calculation.* If any such source of capital was created specifically for the purchase of property which can be identified as operating property or nonoperating property, the utility company must identify such sources of capital in their annual report to the department, together with the appropriate evidence of such. If the utility company fails to provide such information, the department may determine that such sources of capital may be allocated in the same manner as long-term debt or preferred stock (see subrules 77.4(2) and 77.4(3)). The market value of any such source of capital, in the absence of evidence to the contrary submitted by the utility with its annual report, shall be the book value.

ITEM 6. Amend rule **701—77.4(428,433,437,438)**, implementation clause, as follows:

This rule is intended to implement Iowa Code sections 428.29, 433.4, 437.6, 437.7, 437.14 and 438.14.

ITEM 7. Amend subrule 77.5(1) as follows:

**77.5(1)** The income capitalization approach to unit value estimates the market value of the operating property by dividing the income stream generated by the operating assets by a market derived capitalization rate based on the costs of the various sources of capital utilized or available for use to purchase the assets generating the income stream. The purpose and intent of the income indicator of value is to match income with sources of capital and, therefore, every source of capital ~~utilized~~ *used* or available to be ~~utilized~~ *used* to purchase assets should be reflected in the capitalization rate determination as well as all operating income.

*The net operating income to be capitalized for pipeline companies shall be a weighted average net operating income. The weighted average net operating income shall consist of an average of the three 12-month periods immediately preceding the valuation date. Each of the three preceding 12-month periods shall be weighted by multiplying the first preceding period by three, the second preceding period by two, and the third preceding period by one. The income stream for pipeline companies shall be further reduced by deducting the current year net adjustment expense for investment tax credits.*

~~In the event~~ *If* the utility company has no income or has a negative income, the indicator of value set forth in this subrule shall not be utilized.

If the utility company is one which is not allowed to earn a return on assets purchased with sources of capital such as the company's deferred income taxes, the income will not reflect the earnings on those assets, and as a consequence, a separate adjustment to the income indicator of value must be made to account for the value of those assets. In such instances, the income indicator of value shall be increased by an amount equal to the book value of the source of capital involved, such as the accumulated deferred income taxes. *The adjustment to the income approach for accumulated deferred income taxes shall not be made for pipeline companies.* If any other operating property is clearly not income producing *and*, therefore, not reflected in the income stream, the value of that asset shall be determined separately and added to the value of the other operating property as determined using the income indicator of value. The capitalization rate shall be adjusted, if necessary, for the market rate of return for the sources of cap-

## REVENUE DEPARTMENT[701](cont'd)

ital utilized to purchase such non-income-producing properties where the sources can be clearly identified, ~~otherwise~~. *Otherwise*, the cost of the sources of capital shall be presumed to be equal to the overall market weighted costs of the identified sources of capital.

ITEM 8. Amend rule **701—77.5(428,433,437,438)**, implementation clause, as follows:

This rule is intended to implement Iowa Code sections 428.29, 433.4, 437.6, 437.7, 437.14 and 438.14.

ITEM 9. Amend rule 701—77.6(428,433,437,438) as follows:

**701—77.6(428,433,437,438) Cost approach to unit value.** The cost approach to unit value shall be determined by combining the cost of the operating properties of the utility and deducting therefrom an allowance for depreciation calculated on a straight-line basis. Other forms of depreciation may be deducted if found to exist. *The director may use the replacement cost new less depreciation (RCNLD) valuation methodology for determining the assessed value of the Iowa operating property required under Iowa Code chapter 433.*

This rule is intended to implement Iowa Code sections 428.29, 433.4, 437.6, 437.7, 437.14 and 438.14.

ITEM 10. Amend rule **701—77.7(428,433,437,438)**, implementation clause, as follows:

This rule is intended to implement Iowa Code sections 428.29, 433.4, 437.6, 437.7, 437.14 and 438.14.

ITEM 11. Amend rule **701—77.8(428,433,437,438)**, implementation clause, as follows:

This rule is intended to implement Iowa Code sections 428.29, 433.4, 437.6, 437.7, 437.14 and 438.14.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/24/03.

## ARC 3060B

## REVENUE DEPARTMENT[701]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 453A.25(2), the Department of Revenue hereby adopts amendments to Chapter 81, "Administration," Iowa Administrative Code.

In accordance with provisions of 2003 Iowa Acts, chapter 26, these amendments impose penalties against retailers for the sale of cigarettes or tobacco products to minors.

Notice of Intended Action was published in IAB Vol. XXVI, No. 9, p. 769, on October 29, 2003, as **ARC 2907B**.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective January 28, 2004, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapter 453A as amended by 2003 Iowa Acts, chapter 26.

The following amendments are adopted.

ITEM 1. Amend subrule **81.12(1)**, first unnumbered paragraph, as follows:

~~The board of supervisors or the city council that issued a retail permit is required by Iowa Code section 453A.22 to revoke the permit of any retailer violating Iowa Code section 453A.2 (sale or gift to minors). The board or council may revoke a retail permit for any other violation of division I of Iowa Code chapter 453A. If a retailer or employee of a retailer has violated Iowa Code section 453A.2 or 453A.36(6), the city council, county board of supervisors, or the Iowa department of public health shall assess a penalty as provided in Iowa Code section 453A.22(2) as amended by 2003 Iowa Acts, chapter 26. The revocation penalty procedures are governed by Iowa Code section 453A.22(2)(1) and the individual council's or board's procedures. Iowa Code chapter 17A does not apply to boards of supervisors or city councils. (See rule 701—84.7(421B).) The board of supervisors or the city council that issued a retail permit is required by Iowa Code chapter 252J to revoke the permit of any retailer, who is an individual, if the board or council has received a certificate of noncompliance from the child support recovery unit in regard to the retailer, unless the unit furnishes the board of supervisors or the city council with a withdrawal of the certificate of noncompliance.~~

ITEM 2. Amend rule **701—81.12(453A)**, implementation clause, as follows:

This rule is intended to implement Iowa Code sections ~~453A.13 and section 453A.22~~ as amended by ~~2000~~ 2003 Iowa Acts, ~~Senate File 2366~~ chapter 26, and sections ~~453A.13, 453A.44(11) and 453A.48(2).~~

[Filed 12/5/03, effective 1/28/04]

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AGENCY	RULE	DELAY
Utilities Division[199]	42.9(3), 42.9(4) [IAB 5/28/03, <b>ARC 2506B</b> ]	Effective date of July 2, 2003, delayed 70 days by the Administrative Rules Review Committee at its meeting held June 9, 2003. [Pursuant to §17A.4(5)] At its meeting held August 12, 2003, the Committee voted to delay the effective date until adjournment of the 2004 Session of the General Assembly. [Pursuant to §17A.8(9)] At its meeting held by telephone on December 15, 2003, the Committee voted to lift the delay effective December 16, 2003.



**IOWA ADMINISTRATIVE BULLETIN**  
**Customer Service Center**  
**Department of Administrative Services**  
**Hoover State Office Building, Level A**  
**Des Moines, Iowa 50319**

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